

**RIGHT OF WAY PLATS****PROCEDURE FOR CREATING****Plastic R/W Marker****Concrete R/W Marker****RIGHT OF WAY PLATS**

**NOTE:** This manual provides a written account of how certain activities are performed and is designed to guide and assist staff members in performing their functions.

When appropriate, there may be deviations from these written procedures due to changes in personnel, policies, interpretation, law, experimentation with different systems, or simply evolution of the process itself.

This manual may be changed at any time. Staff members are encouraged to review this manual periodically and suggest changes in the manual to keep the manual current and to minimize differences between the manual and actual practices.

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## RIGHT OF WAY PLATS

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### 20-1 GENERAL

The Right of Way Plats Section of the Design Division is operated under the general direction of the Right of Way Plats Section Leader, who is responsible to the Design Engineer and the Program Manager. Right of way plats are prepared by the Right of Way Plats Section with information shown on them that will aid in acquisition of the land for right of way. Right of way plats with permanent acquisition are legal documents and are recorded in the county recorder's office.

While the plats are not of the same scale as the design plans, they contain most of the topographical features that will be found on the design plans. The right of way plats and design plans must be in exact conformance. In addition to this, the plats show the width of right of way at all right of way breaks; centerline stationing on all parcels for new right of way and all new right of way breaks; parcel identification and ownership by use of matched shading and parcel numbers; and the total area to be acquired in acres or square feet. They also show the legal description, the property owner's name and address, all easements required to build the road, and whether or not the subject property is under contract for deed, etc. Borrow easements are not normally shown on the right of way plats. On certain highways, access control lines, advertising sign control lines, approved points of ingress and egress, and service roads proposed or in place, are also indicated.

This chapter will give the procedures that are being used for creating right of way plats in the North Dakota Department of Transportation (NDDOT). It will deal with preparing land descriptions free from ambiguity and needs no interpretation. Standards will be set forth which, when followed, will result in land descriptions that create boundaries free from conflict and are locatable.

Volumes have been written on how to deal with conflicting elements found in many land descriptions. From these works the authors have evolved rules and principles designed to avoid conflicts. Brevity has been a favorite term of those discussing the preparation of land descriptions. However, the addition of certain terms or phrases that lengthen a description may also eliminate the need for interpreting terms describing the location of a point, line, or parcel. Much has been said about the meaning of various words and their legality. It is important that proper words and phrases be used. Example: If the description said "Beginning 55 feet south of Main Street". That is ambiguous and could mean 55 feet south of the centerline or 55 feet south of the right of way line (whose width is site specific). This chapter will address many of these words and phrases.

It is important that proper formatting be used in creating the right of way plat and its description. With a consistent format, users can find information quicker. Standards help everyone know what to expect and where on each plat, they also help establish a common practice and intent. State laws dictate many items that must be shown on a plat.

Right of way is needed when existing property is not dedicated for highway or public use and is required for highway proposes. Some of these necessities are permanent fee interest, temporary construction easements, permanent roadway and maintenance easements, permanent wetland

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mitigation easements, sight distance, right of way uniformity, and safety (clear zone).

An easement is a non-possessing interest held by one party in land of another party, whereby the first person is accorded partial use of such land for a specific purpose. An easement restricts, but does not abridge the rights of the fee owner to the use and enjoyment of his/her land, subject to the discretion of the easement holder's rights. A temporary construction easement, as used by the NDDOT is normally a fill slope, a cut slope, or a detour easement needed during the construction phase of the road. Duration of temporary easements are normally terminated at the completion of construction or five years, whichever ever comes first.

Right of way plats are prepared by the right of way plat preparers under the direction of a registered land surveyor in the Right of Way Plats Section. Right of way plats prepared by private consulting firms will be checked by the Right of Way Plats Section for completeness and uniformity.

### **20-2 RIGHT OF WAY PLAT USES**

Right of way plats serve several essential operations. Prints for the use of the appraiser are a necessity as well as for the negotiator as a visual aid in negotiations and in interpreting the appraisal report. Plats are the surveyor's means of locating and staking the boundaries of the take lines; and are a valuable aid to the appraiser, land owner, and laymen. They also serve as a visual aid to approving officials, attorneys, and others involved in court proceedings.

### **20-3 PROPERTY OWNER RESEARCH**

Following below are listed the steps that will be followed to complete the right of way process.

#### **20-3.1 PROPERTY OWNER NAMES, LEGAL DESCRIPTIONS, & ADDRESS CHECK**

Property owner names, mailing addresses, and legal descriptions will be furnished by the county recorder, the Title Insurance Company, or a pencil abstract (this may take 30 days or more to receive). When these documents are received, they will be scanned and electronically sent to FileNet. They will then be available to the Right of Way Plat Section.

#### **20-3.2 RESEARCH EXISTING RIGHT OF WAY DOCUMENTS**

In addition to the information received from the county recorder and Title Insurance Company, research all historic and current right of way data for the purpose of determining property splits, ownerships, existing highway right of way limits, etc. Some common sources of locating these documents are as follows:

1. Original Section & Township Notes (Government Land Office (GLO) notes) and the original township plats – Microfilm or state archives.
2. Plats recorded with the county recorder at the county Court house.
3. Existing project plans.
4. City maps & plats – Office files or City Engineer's Office.
5. Old survey notes – Located in NDDOT Records Center.
6. Railroad plats.

**RIGHT OF WAY PLATS****20-3.3 LAND TIES**

Land ties are those physical monuments collected during the preliminary survey by the field survey crew that pertain to property corners, section corners, quarter corners, etc. These surveyed points and property lines including the complete section breakdown should be input into the graphics file and reviewed as soon as possible and any additional ties should be requested immediately after omissions or possible errant points are discovered. Any additional property splits can be verified after reviewing the title certificates when they are received.

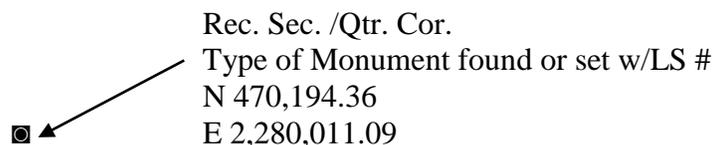
Listed below is some information that field survey personnel use to locate property corners. This can also be found in “Chapter 19” of the Survey Manual.

Property surveys concern the location of accurate public land survey corners during the preliminary survey work and then preservation of permanent survey control points and public land survey corners during and after construction.

It is absolutely necessary that the location of accurate and properly located public land survey corners be supplied on the preliminary survey, as right of way required for future highway construction will be based on this information.

Section corners and quarter corners must be referenced to the survey control points in order that accurate legal descriptions may be prepared for all right of way required for the future highway improvement. All legal descriptions will begin at a section corner, ¼ corner or witness corner of such. All corners are to be recorded pursuant to Chapter 47-20.1, Survey and Corner Recordation Act.

The location of all public land corners that are shown on a right of way plat shall be identified with ground coordinates. These coordinates shall be in the County Coordinates for the county the corners are in.

**EXAMPLE:**

The coordinates are shown in Benson County Coordinates.

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### **20-3.4 ESTABLISH EXISTING RIGHT OF WAY**

Existing right of way will be established by utilizing the legal descriptions, preliminary survey data, existing right of way plats, researched documents, and land ties.

Types of property lines will include but are not limited to the following:

- 1) State lines
- 2) County lines
- 3) Property lines
- 4) Section lines and Quarter (1/4) lines
- 5) Sixteenth (1/16) lines
- 6) City limit lines
- 7) Right of way lines

### **20-4 ELEMENTS OF REAL PROPERTY DESCRIPTIONS**

Three attributes that every land description must possess are:

- Locatable on the ground.
- Maintenance of the title identity.
- Observance of senior rights.

Although attorneys and title company professionals are trained in the last two, they are rarely concerned with the physical locatability. Locatability is a vital concern to the Land Surveyor, whose professional charge is to locate descriptions on the ground. The individual who prepares a land description must be aware of the equal importance of all three attributes.

Some practical requirements of descriptions are as follows:

- Descriptions should be clear and concise.
- Descriptions should be grammatically correct.
- Descriptions **MUST** describe the land with certainty and to the exclusion of all other interpretations.

The following sections of this chapter will go into these aspects in more detail.

Gurdon H. Wattles, in Chapter 7 of *Writing Legal Descriptions*, explains that sufficiency is one of the first details to look for in the analysis of any description and that sufficiency is related to the adequateness of references to documents in the public record, calls to monuments, certainty in dimensions, and the completeness of the necessary facts.

Further, a section of the 1979 *Specifications for Descriptions of Tracts of Lands for use in Land Orders and Proclamations*, by the Cadastral Surveys, Bureau of Land Management, US Department of Interior, states that:

“Drafts of proposed proclamations and land orders should be carefully prepared with proper regard for established good usage as to terminology, phraseology, punctuation, arrangement, and paragraphing. The description of the tract or tracts of land involved

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should be technically competent, definite, and susceptible of only one interpretation. It should furnish sufficient information for the identification of the land on the ground.”

A land description can be defined as that portion of a deed or instrument affecting title to land that provides a means for identifying and locating the land being conveyed or affected. The location of the land must be definite and certain. The description must be prepared in such a manner that the boundaries of the land in question can be fixed in only one place on the earth's surface. The identity of the land must be ascertained so that the description refers to one and only one parcel. Conveyances have been deemed void by the courts because of lack of identity or locatability. Extrinsic or parole evidence can be admitted as a means to validate the description and enable the surveyor to locate the land on the ground. However, if the description is written properly, the need for added evidence vanishes.

**20-4.1 GENERAL PROVISIONS**

Following is a list of general rules used in a land description.

- a) Do not write out numbers.
- b) Use a colon to end the preamble.
- c) Use a semi-colon to end each course, except the last, end with a period.
- d) Always list BEARING first and DISTANCE second.
- e) Whenever possible, descriptions should start from the left side and traverse around in a clockwise direction. If going counterclockwise, the word counterclockwise must be used in the description.  
An example will be given later in this chapter.
- f) Do not capitalize general direction calls:  
EXAMPLE:  
  - ... southwest corner
  - ... west 50 feet
- g) Curves are considered tangent unless otherwise stated.
- h) Do not use “True Point of Beginning;” instead use “Commencing at” and then proceed to the “point of beginning”.
- i) Follow the area of the land described with the phrase “more or less;” this assures that the area of the land described is not considered a “bound” or given more significance than intended.
- j) Adjectives describing a line are not capitalized.
- k) Do not use abbreviations except for angles and direction in a bearing and section breakdown. Use deg. min. sec. (do not use degree symbol) for angles and N, S, E, W for direction in the bearing.:  
EXAMPLE:  
  - ... N 89 deg. 57 min. 26 sec. W a distance of 135.36 feet

In a section breakdown use SE for southeast, etc. Use ½ and ¼ instead of one/half, or one/quarter).
- l) The dimension text for the offset distances on existing right of way is to be placed parallel or perpendicular with the centerline. On curves it should be

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parallel or perpendicular with the radial line to the curve.

- m) The area should be calculated, displayed, and printed to two digits to the right of the decimal point for areas calculated in acres and normally to the nearest square foot, if square foot area is desired. Spell out the method for determining the area if different than computer (estimate, planimeter, plat, etc.)
- n) A title sheet has to be created for all projects with right of way plats, unless there is only one plat for a project. See example 20-29 for a sample completed title sheet.
- o) An Engineer's Affidavit must be created for projects taking right of way on tribal lands. See example 20-31 for a sample completed Engineer's Affidavit.
- p) The basis of bearing must be the same throughout the description.
- q) Directions shall remain the same and not change, for example, from azimuths, to bearings.
- r) Calls for monuments should express the intent of the parties, as should calls for adjoiners (Junior-Senior rights).
- s) Distance units should be consistent, and spelled where necessary.
- t) Return to point of beginning to enclose a geometric figure.
- u) The words **END OF DESCRIPTION** shall be added to signify that there is really no more to come. Modern typists and word processors, sometimes untrained in the land description business, combined with an occasional inattentive copy machine operator, may easily overlook the last page especially if it contains only a clause.

**20-4.1.1 PLAT SCALES**

Plat scales are as follows, except where it is deemed necessary to reduce or enlarge a drawing to properly relay information on it. The scale must be large enough so the proposed right of way and all dimensions can be clearly seen.

**PLATS (11" x 17")**

Rural 1" = 200'  
1" = 100'

Urban 1" = 100'  
1" = 60'  
1" = 50'  
1" = 40'

**20-4.1.2 TEMPORARY EASEMENTS**

All temporary easements must have a note stating their specific purpose. Plats containing only temporary easements on them are not filed with the county recorder. Plats with only temporary easements need to be referenced as such on the title sheet. See example 20-30 for a sample of a complete title sheet.

**20-4.1.3 ACCESS POINTS & ACCESS CONTROL**

Access locations must be indicated by a bold arrow, see example 20-21.2, and a station is to be provided at each location. See examples in 20-21.1 on how to complete the plats and surveyor's certificate if adding access points to existing plats.

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**20-4.1.4 LABELING**

Existing and proposed centerlines are to be shown and labeled. Also any station equations for the proposed centerline should be labeled. On all four (4) lane and Interstate highways, the median line is used for determining new right of way taking.

**20-4.1.5 PROPERTY LINES**

The property line limits must be indicated on the right of way plat. In urban areas, the right of way plats need to indicate the appropriate lot, block, subdivision, and city involved with the acquisition area.

**20-4.1.6 EXISTING EASEMENTS**

Existing easements such as pipeline easements, ingress/egress easements, telephone, and waterline easements, etc. should be shown on the right of way plat.

**20-4.1.7 RIGHT OF WAY PLAT CHECKLIST**

Below is the right of way plat checklist.

1. Project number, PCN, sheet number, total sheets.
2. North arrow in the upper left hand corner.
3. Section lines, ¼ lines, lot lines, property lines, etc.
4. Existing Right of Way lines.
5. Label Section-Township-Range.
6. Label Subdivisions, Lots, Blocks, Tracts, City, etc.
7. Label Section lines, ¼ lines, lot lines, property line, etc.
8. Label present highway.
9. Horizontal alignment with stationing, begin/end note, equations, etc.
10. Proposed right of way lines.
11. Crosshatch within previously acquired right of way and proposed right of way lines.
12. Dimension existing and proposed right of way.
13. Stations for section lines and ¼ lines.
14. Parcel numbering with ownership note and right of way taking area.
15. Temporary easement note with area.
16. Curb and gutter locations.
17. Entrances drawn (shown when there is an access management issue).
18. Sidewalks to show right of way impacts to property.
19. Rail Road location of tracks and right of way.
20. All Rail Road, ND Trust Lands, and Federal Land Parcels shall be on a separate plat from other parcels to address special requirements.

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**20-4.1.8 SETTING NEW RIGHT OF WAY**

The designer is to set the new right of way lines in detail within the design.dgn file using graphic lines. Refer to the CADD standards Manual for appropriate symbology to be used. Criteria used to set permanent right of way lines are described in the following sections.

**20-4.1.8.1 GENERAL CRITERIA**

1. Grading projects typically maintain a uniform highway right of way width on each side of the construction centerline. Where roadside slopes are considered unusable or it is the landowner's desire, the cut and fill slope work limits are to be purchased uniformly and with as few breaks as possible.
2. For projects where additional lanes are added to an existing highway (i.e. conversion of a two-lane highway to a divided four-lane expressway) and the new right of way is purchased on only one side of the highway, parallel the existing highway right of way when setting the new highway right of way in order to maintain a consistent width throughout.
3. Where there is need for a width change close to a PC or PT of a horizontal curve, the breaks should be made coincident with the PC or PT if possible.
4. Where width changes are required both right and left, the break points should coincide at the same stationing if possible.
5. Breaks in widths should not occur in drainage channels, roads, or drives.
6. NOTE: Round station and offsets where possible.

**20-4.1.8.2 RURAL CRITERIA**

1. Typical right of way widths are 100 feet either side of construction centerline.
2. Exceptions to the typical width may occur where farmsteads, trees, buildings, utilities, environmentally sensitive areas would adversely increase project costs or geometrics.

**20-4.1.8.3 URBAN CRITERIA**

New construction or major reconstruction on urban or urban extension systems or in cities with less than 50,000 population will normally require that adequate right of way is provided for street hardware, sidewalk, and possibly a narrow boulevard. To provide this space will generally require 8 feet from the face of the proposed curb to the right of way line. This should be done according to the following procedure:

- The Project Concept Report (PCR) should address the right of way needs from the curb to the right of way line. It should also address any general exceptions to the border width when the dimension is

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less than 8 feet from the curb to the right of way line.

- Existing widths less than 8 feet which are not disturbed generally will be allowed to remain if there are no identifiable problems.
- In cases where the border width is reduced to less than 8 feet, the Design, Planning, District Engineers, and the representative of the local agency should review the situation and recommend acquiring additional right of way or requesting an exception to the 8 foot width.
- The 8 foot width may be reduced at certain locations, such as right turn lanes. The area must still safely provide space for sidewalk and street hardware (lighting, signing, etc.).
- Approval of the PCR by the Deputy Director for Engineering and the FHWA, where appropriate, will constitute approval for all location exceptions identified in the report. Any deviations to the 8 foot width during design or construction should be coordinated with the Design Engineer.

**20-4.1.9 SETTING TEMPORARY EASEMENTS**

Temporary easements are necessary whenever work limits are outside the right of way such as the following case:

1. Cut slopes and fill slopes.
2. Driveways and approaches.
3. Inlets and outlets at drainage structures including erosion protection.
4. Channel changes where future maintenance by public entities is not anticipated.
5. Urban projects to provide additional construction work areas for installation of storm sewer, sidewalk, retaining walls or other construction activities near the right of way line.
6. Rural projects to provide additional area for topsoil piles and/or to carry traffic outside of the work limits

**20-4.1.9.1 GENERAL CRITERIA FOR RURAL & URBAN AREAS**

1. Long, straight easement lines are preferable to minimize the number of breaks required along the easement.
2. Label all easement lines with station and offsets. Station and offsets are to be shown at:
  - a. Beginning and ending of easement.
  - b. Parcel limits.
  - c. Exact location of ownership changes.
3. Shade all proposed easement areas.
4. NOTE: Round station and offsets where possible.
5. The following easement termination paragraph shall be used and written after the Body and before the Area paragraphs;

It is a condition of this easement that it shall not be filed for record

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and that all rights conveyed to the state of North Dakota and North Dakota Department of Transportation by this instrument shall terminate upon completion of construction of said project, or in five years from the date of conveyance, whichever comes first.

**North Dakota Century Code Chapter 47-01****47-01-22. Temporary easements to contain fixed termination date.**

Whenever a temporary easement is acquired by the state or any of its agencies, departments, or institutions, or any political subdivision of the state in connection with highway or road construction or for any other purpose, a fixed date of termination shall be stated in such temporary easement, which date shall not be more than five years from the date of the easement.

**20-4.1.9.2 RURAL CRITERIA**

Temporary easement boundaries on rural projects should be established using the following:

1. Twenty (20) feet outside of work limits for temporary easement limits.
2. Ten (10) feet additional easement for carrying traffic.
3. Compute and show the area of the easement in acres. Calculate the acreage to the nearest 0.01 acre.

**20-4.1.9.3 URBAN CRITERIA**

Temporary easements boundaries on urban projects should be established using the following:

1. Ten (10) feet outside of the work limits for temporary easement limits. The easement can be limited or reduced if the work limits can be held within the right of way and still accommodate construction. The designer must pay close attention to the impacts the temporary easement may have on the adjacent property's value.
2. Provide easement areas in whole square feet.

**20-4.2 PARTS OF A LAND DESCRIPTION**

The description portion of a deed or other instrument affecting land title will contain the following parts. The Caption or Preamble, the Body, Limiting Clauses, area, and the following phrase "The legal description was prepared by (Name), PLS, North Dakota Department of Transportation, 608 East Boulevard Avenue, Bismarck, North Dakota, 58505-0700". (Century Code Chapter 47-19-03.1)

The parts of the land descriptions are described below, also reference the GeoPak Legal Editor and NDDOT Legal Library in the NDDOT CADD Standards Chapter 4.11.

**20-4.2.1 CAPTION OR PREAMBLE**

The caption or preamble is the first element of a description and appears

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first on the page. It is the statement that recites the general location of the property to be described and functions to limit the extent of what is to follow in the body of the description, such as:

- a) State, City, County, geographical location.
- b) Subdivision with name and recording data.
- c) Township plat with Section, Township, Range, etc.
- d) Land grant with identifying information.
- e) Any court or record document upon which the description depends.

**EXAMPLE:**

A portion of the NW  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of Section 5, Twp 140 N, Rge 99 W of the 5<sup>th</sup> Principle Meridian, County of Stark, State of North Dakota, described as follows: ...

Tomorrow's boundary and title problems may be caused by today's land descriptions. Take care when preparing a description. Check that no conflict occurs between the caption and the body of the description.

**20-4.2.2 BODY**

The body is the main portion of the description. The body contains the specific identification of the land. It describes the land in particular and contains the controlling calls such as:

- a) Point of commencement.
- b) Point of beginning.
- c) Direction of travel and courses.
- d) Calls for monuments and adjoiners.
- e) Any other information necessary to pinpoint the exact location of the property in question.
- f) Return to the point of beginning.

**EXAMPLE:**

Commencing at the southwest corner of said section 5, thence east along the south line S 89 deg. 25 min. 17 sec. E, a distance of 165.21 feet to the point of beginning; thence on a bearing of N 01 deg. 54 min. 23 sec. W a distance of 345.91 feet...

**20-4.2.3 LIMITING CLAUSES**

Often called qualifiers, these are used to limit or preserve some rights for the grantor or to recognize a previous conveyance. They can also be used to grant a right (easement) to a third party.

**EXAMPLE:**

- Excepting there from, the south 30.00 feet thereof for...
- Reserving there from, the easterly 20.00 feet thereof for private

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road and public utility purposes...

**Qualifying Clauses**

Qualifying clauses take back, restrict, or encumber some portion or right normally included in the body of the description. Examples are easements for roads, utilities, and the like.

Qualifying clauses begin with either SUBJECT TO or with RESERVING.

SUBJECT TO is used when the encumbrance has already been in existence.

RESERVING is used when the encumbrance is being created at the time of the original description.

As a matter of good practice, the clauses should always describe in detail those clauses for which there is information. However, it is equally good practice to never promise or otherwise make a statement that would lead one to believe that you have described all the encumbrances or augmenting clauses that effect the property.

Clauses should stand alone, rather than being integrated into the body of the description, with all of the qualifying clauses grouped together and all of the augmenting grouped together. It doesn't matter which are placed first, but all of the descriptions should be consistent.

**20-4.2.4 CURVES**

There are many ways to describe curves. However, some aspects of describing curves are fundamental. At least two elements of a curve are required definition (usually radius and curve length). It is conventional, to add a third element for a check. Additional elements must be added to define the orientation of the curve and the direction of travel along it. The elements of a curved line description are generally given priority by the order in which they are stated. The most commonly stated order is:

1. Radius (fixed).
2. Central angle (measured).
3. Length (calculated).

Following are ways to describe various curves:

**Line to tangent curve:****EXAMPLE:**

... N 23 deg. 16 min. 52 sec. E a distance of 700.00 feet to the beginning of a tangent curve, concave to the left (northwesterly), having a radius of 25.00 feet; thence northwesterly along said curve 5.45 feet through a central angle of 12 deg. 30 min. 00 sec. to the end of the curve; thence N 10 deg. 46 min. 52 sec. E...

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**Compound/reverse curve:**

... Thence westerly along said curve 100.72 feet through a central angle of 54 deg. 11 min. 10 sec. to the beginning of a tangent compound/reverse curve, concave to the right (southerly), having a radius of 200.00 feet (the radius point of which bears S 20 deg. 11 min. 44 sec. W) ...

**Line to non-tangent curve:****EXAMPLE:**

... thence N 42 deg. 06 min. 32 sec. W a distance of 313.58 feet to a point on a non-tangent curve, concave to the right (northerly), the radius point of which bears N 47 deg. 53 min. 32 sec. E, having a radius of 440.00 feet; thence northerly along said curve 287.31 feet through a central angle of 37 deg. 24 min. 46 sec.; Thence N 74 deg. 58 min. 18 sec. a distance of 101.96 feet...

**Curve to non-tangent line: (*Do not use this if at all possible*)****Example:**

... thence northeasterly along said curve a distance of 88.91 feet through a central angle of 23 deg. 15 min. 36 sec.; thence on a non-tangent line bearing of N 39 deg. 12 min. 45 sec. W, distance of 672.45 feet...

The above methods of describing curves is preferable in that it gives the curve information in much the same order that a draftsman would use if plotting the curve (i.e., a logical progression) and is adaptable to the wide variety of situations that can occur.

**20-4.2.5 AREA**

Within the hierarchy of ranked recitals, the area is usually regarded as an informative term, and is recited at the end of the description. You may wonder why area should be included in a description. The answer is, that area is the primary concern of the buyer and seller. The area cannot be calculated without a closed perimeter and the precision of the calculation is dependent upon the precision of the perimeter measurement.

**Example:**

Said strip is shown on the plat as parcel 1-1 and contains 0.16 acres more or less, and is subject to any easements or rights of way previously acquired.

**20-4.2.6 MISCELLANEOUS**

- Identification of the end of the description by including “**END OF DESCRIPTION.**”
- The basis of bearings used for the description must be shown on the plat.

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**20-4.2.6.1 RULES OF CONSTRUCTION**

Although our accuracy has developed to an extent far superior to our predecessors, the controlling elements of any survey remains the same. Monuments control over description. The standards of practice and accuracy must be considered when reviewing these monuments. Lost or obliterated monuments should be restored by acceptable and recommended practices of the profession.

It is well known that over the years, there have been countless disputes over the locations of property lines. In certain cases, the disputes revolve around language contained in the description of the property. As a result, there have been several court cases which have established the priorities for these calls.

1. Natural monuments, such as rivers and lakes, or artificial monuments, such as stakes and iron pipes, recited in the description.
2. Monuments not recited, but disclosed by reference to maps or other documents of record.
3. The recital of a boundary of record, such as reference to a map or deed.
4. A recited distance and/or bearing ties to record corners or lines not on the boundary of the subject property.
5. Distances recited in the description without mention of any of the foregoing. \*
6. Bearings recited (or their derived angles) without mention of any of the foregoing. \*
7. Area of the parcel when stated as an addendum to the description, as in “and containing 4.78 acres, more or less.”

*\* These two items are often interchanged, depending on the circumstances.*

Note that the items on the above list should be considered as general rules of construction. However, the application of the rules of construction is not to be made arbitrarily. One must consider any number of facets of the description, which may bring to light the intent of the parties. Some of these are:

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- That which is first mentioned is preferred.
  
- That which is most certain prevails.
  
- When one set of facts conforms more closely than any other combination that is the most reasonable solution. (*Applications of Eklund, 465 P.2d 552*)
  
- In the case of doubt in the effect of language used to form a contract, the language is interpreted against the party who chose it (i.e., the grantor). Doubts arising from the deed as to the intentions of the parties must be resolved in favor of the free and untrammelled use of the land. (*Phoenix Title and Trust Company v. Smith, 403 P. 2d 828*)
  
- A call in a grant may be reversed and a line retraced in an opposite direction, whenever by doing so, the boundaries will most nearly harmonize with calls on monuments of the grant. (*Phoenix Title and Trust Company v. Smith, 403 P. 2d 828*)

Most generally, however, the following excerpt from *Hurd v. Byrnes, 506 P.2d 686*, is a good principle to keep in mind, wherein the Supreme Court said:

**“... we have adapted a policy against construing conveyances so as to create strips of land, the title of which would otherwise remain in abeyance for long periods of time.”**

Therefore, it would seem that the surveyor’s responsibility in the preparation, as well as the interpretation, of descriptions of real property is accomplished when the descriptions are written free from the possibility of alternate interpretations that might result in small strips of land (gaps and overlaps). Also by interpreting descriptions, wherever possible, so as not to create small strips of land, the title to which would be unclear and could remain in abeyance for long periods of time.

**RIGHT OF WAY PLATS****20-5 COMMON WORDS AND PHRASES**

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**A distance of** Use this phrase only after the bearing and before the distance numeric value.

**EXAMPLE:**

... thence N 01 deg. 11 min. 20 sec. W, along the west line of said section 23, **a distance of** 754.25 feet...

This term is often overused and adds redundancy to descriptions. Except for the above situation, avoid using it.

**Adjacent/Adjoining** Adjacent means “lying near or close to.” It implies that the two objects are not widely separated, but may not actually touch. Therefore, don’t use this term to describe objects that are intended to touch.

Likewise, the term “contiguous” means nearly the same as “adjacent” and should be avoided. The term “**adjoining**” and “**coincident with**” are the best choices where two objects are intended to actually touch.

**EXAMPLE:**

... Together with a 20.00 foot wide easement (state its purpose and to whom it favors) the northerly line of which **adjoins/is coincident with** the north line of the above described parcel of land;

**Along** Use this term when the preceding course in a description terminates at a right of way, senior property line, or a riparian boundary and the following course is to proceed along that boundary. Use of this term ensures that if a retracement of the description results in a different direction of that boundary, the described line will be coincident with it.

**EXAMPLE:**

... Thence N 03 deg. 20 min. 45 sec. W, **along** the survey centerline of State Street, a distance of 84.70 feet ...

**Both** Use this term in strip descriptions when the right of way lines are on both sides of the described survey centerline. The term “either” is often used, and incorrectly gives the indication of a choice.

**EXAMPLE:**

A strip of land 50.00 feet in width, lying 50.00 feet on **both** sides of the following described survey centerline:

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**Conveyed/Described** These terms are used when the line being described is intended to terminate or run along a senior property line. The use of the term “conveyed” is not interchangeable with the term “described”. There may be an ownership difference between what was described on the deed vs. what was actually conveyed by the document. Therefore, careful attention must be given when using either of these terms.

**EXAMPLE:**

... to a point on the south line of that parcel of land **conveyed** to John Smith by deed recorded in Book 791203, Instrument No. 569, Burleigh County, North Dakota records...

**EXAMPLE:**

... to a point on the south line of that parcel of land as **described** in Book 791203, Instrument No. 569, Burleigh County, North Dakota records ...

**Parallel**

Use this term when the direction of a line is intended to have the identical direction of another line. The correct preposition to be used with the term is ‘with’.

**EXAMPLE:**

... Thence N 88deg. 55min. 20sec. E, **parallel with** the north line of said Lot10...

**Point**

Refers to a specific location, usually when such a point is on a subsequently named object.

**EXAMPLE:**

... 480.25 feet **to a point** on said west line of Lot 10...

**Prolongation**

This term is used to extend a line. The term “*continuation*” is used to extend a curve.

**EXAMPLE:**

... Beginning at a point on the centerline of Blvd Ave., said point being on the westerly prolongation of the south line of Lot 10 as shown on Parcel map...

**Right Angles**

This term is used to denote a specific relationship to another object.

**EXAMPLE:**

... 354.80 feet to a point 50.00 feet southerly of, **as measured at right angles to**, the centerline of...

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**Said**

This term is used to avoid unnecessary redundancy in descriptions. It refers only to a preceding matter, never to one that follows. The term “aforesaid” although synonymous, is archaic and is not recommended.

**EXAMPLE:**

... 15.00 feet to a point on the west line of **said** parcel 10. Thence N 01 deg. 02 min. 55 sec. W, along **said** west line, a distance of 148.00 feet.

**To**

Use this term freely to indicate the actual terminus of a line you are describing, regardless of the actual stated terminus of the line in feet.

**EXAMPLE:**

... Thence S 65 deg. 30 min. 15 sec. W a distance of 66.88 feet **to** a point on the centerline of Blvd. Ave. ...

... N 79 deg. 45 min. 20 sec. W a distance of 305.95 feet **to** the southwest corner of Lot 10...

**RIGHT OF WAY PLATS****20-6 DESCRIPTIONS AND DEEDS**

One of the pre-eminent requirements of the conveyance of real estate is an adequate description of the property. Each and every parcel designated on the plat has a description, which is written in such a way that one can visualize the tract it describes. Whenever possible, the description should be written so that the calls go from left to right.

**20-6.1. TYPES OF DESCRIPTIONS**

Descriptions are generally written in one of the following ways:

- The centerline description
- The metes and bounds description
- The lot and block description.
- The water boundary description.
- The coordinate description.

Each type of description is described below with examples of each.

**20-6.1.1 CENTERLINE DESCRIPTIONS:**

A centerline description describes a strip of land \_\_\_\_\_ feet wide, measured on the left or right of, or on both sides of the following described highway centerline as surveyed across a particular tract.

**EXAMPLE # 1****CAPTION OR PREAMBLE**

Parcel number 1-1

A portion of the E ½ of the SE ¼ of section 4, Township 140 N, Range 80 W, of the 5<sup>th</sup> Principle Meridian, county of Burleigh, state of North Dakota, as shown on Plat 1 of 9 and described as follows:

**BODY**

A strip of land 10 feet wide, the northerly and southerly lines of which are parallel. The southerly line of said strip being 75 feet northerly of and parallel with the following described survey centerline as surveyed:

Commencing at the southeast corner of section 4, thence S 85 deg. 39 min. 32 sec. W along the south line of section 4, which is also the survey centerline of ND 1804, a distance of 80.39 feet to the beginning of the 10 foot strip; thence S 85 deg. 39 min. 32 sec. W along the survey centerline a distance of 678.64 feet to the end of the 10 foot strip.

**AREA**

Said strip is shown on the plat as parcel 1-1 and contains 0.16 acres more or less, and is subject to any easements or rights of way previously acquired.

**END OF DESCRIPTION**

The legal description was prepared by Lou Ann Adams, PLS, North Dakota Department of Transportation, 608 East Boulevard Avenue, Bismarck, North Dakota, 58505-0700.

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In example #2 the owner is the same for all three strips and they are connected.

**EXAMPLE #2    CAPTION OR PREAMBLE**

Parcel number 1-1

A portion of the E ½ of the SE ¼ of Section 4, Township 140 N, Range 80 W, of the 5<sup>th</sup> Principle Meridian, county of Burleigh, state of North Dakota, as shown on Plat 2 of 9 and described as follows:

**BODY**

A strip of land 20 feet wide, the northerly and southerly lines of which are parallel.

Together with a strip of land 10 feet wide, the northerly and southerly lines of which are parallel.

Together with a strip of land 30 feet wide, the northerly and southerly lines of which are parallel.

The southerly line of said strips being 75 feet northerly of and parallel with the following described survey centerline as surveyed:

Commencing at a buried large granite rock which is the southeast corner of Section 4, thence west along the south line of Section 4, which is also the survey centerline of ND 1804, S 85 deg. 39 min. 32 sec. W a distance of 80.39 feet to the beginning of the 20 foot strip; thence S 85 deg. 39 min. 32 sec. W along the survey centerline a distance of 678.64 feet to the end of the 20 foot strip; this point is also the beginning of the 10 foot strip; thence S 85 deg. 39 min. 32 sec. W along the survey centerline a distance of 200.00 feet to the end of the 10 foot strip; this point is also the beginning of the 30 foot strip; thence S 85 deg. 39 min. 32 sec. W along the survey centerline a distance of 300.00 feet to the end of the 30 foot strip.

**AREA**

Said strip is shown on the plat as parcel 1-1 and contains 0.56 acres more or less, and is subject to any easements or rights of way previously acquired.

END OF DESCRIPTION

The legal description was prepared by Lou Ann Adams, PLS, North Dakota Department of Transportation, 608 East Boulevard Avenue, Bismarck, North Dakota, 58505-0700.

NOTE: Absent language to the contrary, if the centerline description terminates within the property, the sidelines terminate at right angles to the survey centerline at its terminus.

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**20-6.1.2 METES AND BOUNDS DESCRIPTIONS:**

A description that describes a tract of land by using a bearing and distance on each line that makes up the boundary of said tract. This description is usually used when the taking involves an irregular tract. The description is described in a *clockwise* direction.

**Primary and secondary calls**

“Calls” in a metes and bounds description direct the user around a parcel of land starting at the point of beginning, going around the parcel and returning to the point of beginning. Some types of calls are:

***Free calls:***

The direction and length of the course is determined by its stated bearing and length.

“...thence N 30 deg 10 min 30 sec E a distance of 500 feet; thence ...”

***Calls to adjoiners or record lines:***

The terminus of the course is controlled by some record line or corner.

“...thence N 30 deg 10 min 30 sec E a distance of 500 feet to the northwest corner of Lot 25;”

“...thence N 30 deg 10 min 30 sec E a distance of 500 feet to a point in the westerly line of Lot 25;”

***Calls along adjoiners or record lines:***

The direction of the course is determined by some record line, regardless of the stated bearing.

“...thence N 30 deg 10 min 30 sec E along the westerly line of Lot 25 a distance of 500 feet;”

***Calls to objects:***

The direction and terminus of the course is controlled by the location of the object called for.

“...thence N 30 deg 10 min 30 sec E a distance of 500 feet to a 1” iron pin capped LS xxxx;” This is a call to a monument.

“thence N 30 deg 10 min 30 sec E a distance of 500 feet to the centerline of Burnt Creek;” This is a call to a natural object.

The stated bearing would control the direction of the line and the creek centerline controls the terminus.

A general rule to follow is that everything in a call before the words “to” or “along” can be considered secondary or informative and that the words following “to” or “along” are primary or controlling.

In example #1 the description goes clockwise.

**EXAMPLE # 1****CAPTION OR PREAMBLE**

Parcel number 1-1

A portion of the SW  $\frac{1}{4}$  of section 9, Township 139 N, Range 80 W, of the 5<sup>th</sup> Principle Meridian, county of Burleigh, state of North Dakota, as shown on Plat 3 of 9 and described as follows:

**BODY**

Commencing at the SW corner of section 9, thence easterly along the south line of section 9, S 90 deg. 00 min. 00 sec. E a distance of 200.00 feet; thence N 0 deg. 00 min. 00 sec. E a distance of 200.00 feet to the point of beginning; thence continuing on said bearing and parallel with the west line of section 9 a distance of 300.00 feet; thence N 90 deg. 00 min. 00 sec. E a distance of 300.00 feet to the beginning of a curve, concave to the right (southeasterly), having a radius of 127.32 feet; thence southeasterly along said curve a distance of 100.00 feet through a central angle of 45 deg. 00 min. 00 sec. to the end of the curve; thence S 45 deg. 00 min. 00 sec. E a distance of 371.52 feet; thence S 90 deg. 00 min. 00 sec. W a distance of 652.74 feet to the point of beginning.

**AREA**

Said tract is shown on the plat as parcel 1-1 and contains 3.10 acres more or less, and is subject to any easements or rights of way previously acquired.

**END OF DESCRIPTION**

The legal description was prepared by Gregory Lattimore, PLS, North Dakota Department of Transportation, 608 East Boulevard Avenue, Bismarck, North Dakota, 58505-0700.

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In example #2 the description goes counterclockwise for a spiral curve.

**EXAMPLE # 2****CAPTION OR PREAMBLE**

Parcel Number 10-1

A portion of NW ¼ of Section 15, Township 156 N, Range 100 W, of the 5th Principal Meridian, County of Williams, State of North Dakota, as shown on Plat 4 of 9 and described as follows:

**BODY**

Commencing at the N ¼ corner of section 15, thence southerly along the ¼ line of section 15, S 02 deg. 22 min. 10 sec. W, a distance of 33.00 feet; thence S 87 deg. 34 min. 20 sec. E a distance of 211.19 feet to the point of beginning; thence in a **counter clockwise direction** along a line parallel with and 173 feet to the right (southwesterly) of the following described survey centerline of US 2: Thence S 72 deg. 05 min. 33 sec. E a distance of 76.64 feet to the beginning of a 200 foot spiral curve back, concave to the left (northeasterly); thence easterly along the spiral curve, through a central angle of 01 deg. 30 min. 00 sec. to the beginning of the simple curve having a radius of 3819.72 feet; thence continuing easterly along the curve 832.00 feet through a central angle of 12 deg. 28 min. 48 sec., to the beginning of a 200 foot spiral curve ahead; thence easterly along the spiral curve through a central angle of 01 deg. 30 min. 00 sec. to the end of the spiral; thence S 87 deg. 34 min. 20 sec. E a distance of 1059.24 feet to the end of the parallel line, this point being 33 feet west of the east line of section 15; thence N 02 deg. 25 min. 40 sec. E a distance of 125.00 feet this line parallels with the east line of section 15; thence N 87 deg. 33 min. 57 sec. W a distance of 1152.44 feet to the beginning of a curve, concave to the right, (northeasterly) having a radius of 3919.83 feet; thence westerly along said curve a distance of 726.13 feet through a central angle of 10 deg. 36 min. 50 sec. to the end of the curve; thence N 87 deg. 34 min. 20 sec. W a distance of 520.80 feet to the point of beginning.

**AREA**

Said parcel is shown on the plat as 10-1 and contains 6.20 acres more or less, and is subject to any easements or rights of way previously acquired.

END OF DESCRIPTION.

The legal description was prepared by Lou Ann Adams, PLS, North Dakota Department of Transportation, 608 East Boulevard Avenue, Bismarck, North Dakota, 58505-0700.

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**20-6.1.3 LOT AND BLOCK DESCRIPTIONS (linear or of):**

A description that recites, “The southerly 50 feet of Lot 1, Block 2” is an example of a linear description. It is also known as an “of” description. In fact any phrasing using the word “of” in a similar fashion may be referred to as an “of” description. Linear descriptions are exact and concise, provided everyone understands exactly what portion of the earth’s surface is contained within Lot 1, Block 2. From the standpoint of locatability, the location of Lot 1, Block 2 may give rise to some uncertainty.

**20-6.1.3.1 Problems associated with linear descriptions;**

There are two common problems associated with these types of descriptions. The first one involves the extent of the lot, and the second one involves the dividing line.

Most surveyors have tried to locate this type of description on the ground, and seldom find the location as certain as it would appear from reading the description.

When a call is for a portion of a lot, then one of the first questions for the plat creator involves the origin of Lot 1. At a minimum, the description writer must identify the source to give guidance about the interpretation of the description for those who may follow. Therefore, the description writer must write an adequate land description to stand the test of time.

The rules for location and resurvey are based upon state laws and court interpretations. One nagging problem in such situations is determining whether a street may be included, and how it may be treated in locating the “southerly 50 feet”. The uncertainty is increased further by opening, closing, or vacating a street adjacent to a lot.

**North Dakota Century Code, Chapter 47-10-10 Title to highway, street, alley, and public right of way – Vacation.**

“A transfer of land bounded by a highway, street, alley, or public right of way passes the title of the person whose estate is transferred to the soil of the highway, street, alley, or public right of way in front to the center thereof unless a different intent appears from the grant. Every conveyance of real estate, which abuts upon a vacated highway, street, alley, other public right of way, shall be construed, unless a contrary intent appears, to include that part of such highway, street, alley, or public right of way which attaches either by operation or presumption of law, to such abutting real estate upon vacation”.

The second common problem with linear or “of” descriptions is the location of the dividing line or its direction. In the simplest terms, the following principle may be used:

A linear or “of” description presumes that the line is parallel and distances are measured along a line perpendicular to the boundary line which the measurement is made.

**20-6.1.3.2 Summary**

From the foregoing discussion, it should be apparent that linear and “of” descriptions can be easy to write. However, because of differences in base title and the applicable rules, they are not easy to locate, and hence not a sufficient description.

Following is an example of a lot and block description.

**CAPTION OR PREAMBLE**

Parcel Number 1-1

A portion of Lot 20, Block 6 of Abner’s Subdivision, Section 4, Township 138 N, Range 80 W, of the 5<sup>th</sup> Principal Meridian, County of Burleigh, State of North Dakota, as shown on a plat filed in Book 5, page 10, records of Burleigh County, state of North Dakota, as shown on Plat 5 of 9 and more particularly described as follows:

**BODY**

The south 30 feet of Lot 20, Block 6 as shown on right of way plat 1 of 1, bound by a line parallel with and 30 feet north of the south line of said Lot 20. The south line of Lot 20, Block 6 is 45 feet north of and parallel with the following described line:

Commencing at the southeast corner of Section 4, thence west along the south line of Section 4, which is also the survey centerline of ND 1804, S 85 deg. 39 min. 32 sec. W a distance of 500.00 feet to a point 45 feet south of the beginning of Lot 20. Thence continuing on the bearing of S 85 deg. 39 min. 32 sec. W a distance of 200 feet to a point 45 feet south of the end of Lot 20.

**AREA**

Said parcel is shown on the plat as Parcel 1-1 and contains 6000 Sq. feet more or less, and is subject to any easements or rights of way previously acquired.

END OF DESCRIPTION

The legal description was prepared by Lou Ann Adams, PLS, North Dakota Department of Transportation, 608 East Blvd. Avenue, Bismarck, ND 58505-0700.

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**20-6.1.4 WATER BOUNDARY DESCRIPTIONS:**

State laws on water boundaries.

Constitution of North Dakota Article XI Section 3

“All flowing streams and natural water courses shall forever remain the property of the state for mining, irrigating, and manufacturing purposes”.

Watercourse bed

“This section has application only to the waters of flowing streams and natural water courses and not to lands underlying non-navigable streams and water courses. Thus, unless otherwise conveyed, the water course bed remains the property of the landowner”.

United States V. Vesterso 828 F.2d 1234 (8<sup>th</sup> Cir. 1087)

**North Dakota Century Code Chapter 61-15**

61-15-01 Definitions

Repealed by S.L. 2013, ch. 481, § 2.

**North Dakota Administrative Code Chapter 89-10**

89-10-01-03 Definitions

5. ““Navigable waters” means any waters which were in fact navigable at the time of statehood, that is, were used or were susceptible of being used in their ordinary condition as highways for commerce over which trade and travel were or may have been conducted in the customary modes of trade on water, including the Missouri River, the Yellowstone River, the Red River of the North from Wahpeton to the Canadian border, the Bois De Sioux River from Wahpeton to the South Dakota border, the James River, the Upper Des Lacs Lake, Devils Lake, Painted Woods Lake, and Sweetwater Lake”.
6. ““Ordinary high watermark” means the line below which the action of the water is frequent enough either to prevent the growth of vegetation or to restrict its growth to predominantly wetland species. Islands in navigable streams and waters are considered to be below the ordinary high water mark in their entirety”.

**North Dakota Century Code Chapter 47-01**

“47-01-15 Banks and beds of streams – Boundary of ownership

Except when the grant under which the land is held indicates a different intent, the owner of the upland, when it borders on a navigable lake or stream, takes to the edge of the lake or stream at **low water mark**. All navigable rivers shall remain and be deemed public highways. In all cases when the opposite banks of any stream not navigable belong to different persons, the stream and the bed thereof shall become common to both”.

**RIGHT OF WAY PLATS**

Following is an example of a navigable stream or lake boundary description with a meander line.

**CAPTION OR PREAMBLE**

Parcel Number 1-1

A portion of the SW  $\frac{1}{4}$  of Section 36, Township 154 N, Range 67 W, of the 5<sup>th</sup> Principal Meridian, County of Benson, State of North Dakota, as shown on Plat 6 of 9 and described as follows:

**BODY**

Commencing at the west  $\frac{1}{4}$  corner of section 36, being the point of beginning; thence easterly along the  $\frac{1}{4}$  line of section 36 N 90 deg. 00 min. 00 sec. E, a distance of 633.40 feet to the beginning of a meander line; thence S 0 deg. 00 min. 00 sec. E along the meander line, a distance of 821.24 feet; thence S 44 deg. 40 min. 00 sec. W along the meander line, a distance of 729.30 feet; thence S 13 deg. 07 min. 00 sec. W continuing along the meander line, a distance of 531.96 feet to a point on the west line of section 36; thence N 0 deg. 00 min. 00 sec. E along the west line of section 36, a distance of 1858.00 feet to the point of beginning.

Together with the strip of land, if any, between the meandered line and Devils Lake.

**AREA**

Said tract is shown on the plat as parcel 1-1 and contains 17.15 acres more or less, and is subject to any easements or rights of way previously acquired.

END OF DESCRIPTION.

The legal description was prepared by Lou Ann Adams, PLS, North Dakota Department of Transportation, 608 East Boulevard Avenue, Bismarck, North Dakota, 58505-0700.

**RIGHT OF WAY PLATS**

Following is an example of a navigable stream or lake boundary description without a meander line.

**CAPTION OR PREAMBLE**

Parcel Number 1-1

A portion of the SW  $\frac{1}{4}$  of Section 36, Township 154 N, Range 67 W, of the 5<sup>th</sup> Principal Meridian, County of Benson, State of North Dakota, as shown on Plat 7 of 9 and described as follows:

**BODY**

Commencing at the west  $\frac{1}{4}$  corner of section 36, being the point of beginning; thence easterly along the  $\frac{1}{4}$  line of section 36, N 90 deg. 00 min. 00 sec. E, a distance of 633.00 feet more or less to the intersection of the ordinary high water line of Devils Lake; thence southwesterly along the ordinary high water line to a point on the west line of Section 36. Thence N 0 deg. 00 min. 00 sec. E along the west line of section 36, a distance of 1858.00 feet more or less to the point of beginning.

**AREA**

Said tract is shown on the way plat as parcel 1-1 and contains 17.15 acres more or less, and is subject to any easements or rights of way previously acquired.

END OF DESCRIPTION.

The legal description was prepared by Lou Ann Adams, PLS, North Dakota Department of Transportation, 608 East Boulevard Avenue, Bismarck, North Dakota, 58505-0700.

**RIGHT OF WAY PLATS**

In non-navigable lakes, creeks, and rivers, title of adjoiners usually goes to the centerline, and the descriptions call to the centerline.

Following is an example of non-navigable lakes and streams description.

**CAPTION OR PREAMBLE**

Parcel Number 1-1

A portion of the SW  $\frac{1}{4}$  of Section 36, Township 154 N, Range 67 W, of the 5<sup>th</sup> Principal Meridian, County of Benson, State of North Dakota, as shown on Plat 8 of 9 and described as follows:

**BODY**

Commencing at the west  $\frac{1}{4}$  corner of section 36, being the point of beginning; thence easterly along the  $\frac{1}{4}$  line of section 36, N 90 deg. 00 min. 00 sec. E, a distance of 633.40 feet to the center line of Wolf Creek; thence S 0 deg. 00 min. 00 sec. E along the center line of Wolf Creek, a distance of 821.24 feet; thence S 44 deg. 40 min. 00 sec. W continuing along the center line, a distance of 729.30 feet; thence S 13 deg. 07 min. 00 sec. W along the centerline line, a distance of 531.96 feet to a point on the west line of section 36; thence N 0 deg. 00 min. 00 sec. E along the west line of section 36, a distance of 1858.00 feet to the point of beginning.

**AREA**

Said tract is shown on the plat as parcel 1-1 and contains 17.15 acres more or less, and is subject to any easements or rights of way previously acquired.

END OF DESCRIPTION

The legal description was prepared by Lou Ann Adams, PLS, North Dakota Department of Transportation, 608 East Boulevard Avenue, Bismarck, North Dakota, 58505-0700.

**20-6.1.5 COORDINATE DESCRIPTIONS:****20-6.1.5.1 INTRODUCTION**

As Geographic Information Systems (GIS's) are being developed more and more on real world spatial data, the importance of a sound control system tied to State Plane Coordinate System is becoming more apparent. When existing records are converted to a digital media by coordinate geometry, the accuracy and repeatability of the product escalates.

The advantages of using the State Plane Coordinate System are:

1. The use of well-established control points in a traverse eliminates serious mistakes in measuring both distance and angles.
2. A point whose Y (northing) and X (easting) coordinates have been determined can, if lost, always be replaced with the degree of precision with which it was originally established.
3. Maps which have been controlled by coordinated points will always conform when joined; no matter how unrelated the projects were which necessitated the maps.
4. The use of a common reference system for surveys reduce or eliminate costly duplication in the way numerous control surveys over the same area by various land surveyors.

The ability to replace a point in its original position is the ultimate goal of the retracement land surveyor. No dispute can arise if the original monument is found or if its location has been perpetuated beyond any doubt. The attribute of a land description, to be locatable on the ground, means that the lines as described be fixed in only one place on the earth's surface. The intersection of a given Latitude and Longitude is a unique point, hence the northing and easting as converted from that latitude and longitude, are also unique. Lines are established between corners or points. Points or corners tied to a State Plane Coordinate System control the lines between them, hence the lines created by a land description having corners tied to the State Plane Coordinate System have a high reliability factor of being "FIXED" in only one place on the earth's surface.

Monuments called for in a description are not always permanent. Metal rusts, wood rots, trees are subject to fire, lightning, and bulldozers, stones weather and change character. Corners can be restored, but may not be placed in the original position. The position of a lost section corner, restored by double proportion method, probably will not occupy the same position as the original corner, but must be used for any subsequent survey tied to that corner. However, if corners and monuments are tied to a coordinate system, subject to repeatability, with reasonable accuracy, the position of the corner is perpetuated.

**RIGHT OF WAY PLATS****20-6.1.5.2 APPLYING STATE PLANE COORDINATE SYSTEM TO LAND DESCRIPTIONS**

When a right of way plat is needed, a survey must be done before the plat can be created. The survey shall be based on state plane coordinates, if practical. The Online Positioning User Service (OPUS) method shall be used to establish control points for this survey. The state plane coordinates will then be converted to county coordinates.

Once the survey is complete, every corner of the boundary, whether found or set, will be tied to the real world State Plane Coordinates or geodetic latitude and longitude that are determined for each corner. Their position will remain fixed, whether a monument is found in place or not.

**CAPTION OR PREAMBLE**

Parcel Number 1-1

A portion of the E ½ of the SW ¼ of Section 4, Township 140 N, Range 80 W, of the 5<sup>th</sup> Principal Meridian, County of Benson, State of North Dakota, as shown on Plat 9 of 9 and described as follows:

**BODY**

Commencing at a buried Iron Pin, cap # LS-1139 which is the south west corner of Section 4, coordinates N 459,634.62, E 2,280,212.77; thence northerly on the west section line N 0 deg. 57 min. 00 sec. W a distance of 300.00 feet, coordinates of N 459,934.58, E 2,280,207.80 to a ¾" I.P., cap #LS-1139 which is the point of beginning; thence continuing on the bearing of N 0 deg. 57 min. 00 sec. W a distance of 1000.00 feet, coordinates of N 460,934.45, E 2,280,191.22; thence N 89 deg. 03 min. 00 sec. E a distance of 600.00 feet, coordinates of N 460,944.39, E 2,280,791.14, to the beginning of a curve concave to the (right) southeasterly, having a radius of 331.37 feet; thence along said curve a distance of 780.77 feet, coordinates of N 460,382.67, E 2,281,034.80 to the end of the curve; thence S 44 deg. 03 min. 00 sec. W a distance of 614.21 feet, coordinates of N 459,941.22, E 2,280,607.74; thence S 89 deg. 02 min. 59 sec. W a distance of 400.00 feet to the point of beginning.

**AREA**

Said parcel is shown on the plat as 1-1 and contains 17.55 acres more or less, and is subject to any easements or rights of way previously acquired.

All distances are ground distances. Coordinates are NDDOT Benson County ground coordinates. Combination Factor (cf) = 0.9998610 (International foot)

**END OF DESCRIPTION**

The legal description was prepared by Lou Ann Adams, PLS, North Dakota Department of Transportation, 608 East Blvd. Avenue, Bismarck, ND 58505-0700

**20-6.2 REMAINING ACREAGE:**

All parcels with permanent right of way should have, if possible, the remaining acreage shown on the plat after each parcel pertaining to a particular described tract, such as:

NW ¼ 5-154-51	
Parcel No.1	12.36 acres
John Doe	
Grand Forks, North Dakota	
Remaining Acreage	152.64 acres

**20-6.3 PLAT SCALE:** Plats drawn in urban areas are drawn on a scale of one inch equal one hundred feet (1"=100') or larger scale (1"=60', 1"=50' or 1"=40'), if needed.

Rural areas can be drawn on a scale of one inch equal two hundred feet (1"=200') or larger scale (1"=100'), if needed. Also see 20-4.1.1

**20-6.4 OWNERSHIP LABELING:** When drawing right of way plats, all property lines will be labeled so as to distinguish one ownership from another. The names and adjacent boundary lines of any adjoining platted lands must be dotted on the plat. (Century Code 40-50.1)

**20-6.5 PARCEL SHADING:** All shading on parcels will be accomplished in such a manner that it will not block out topography and lettering. The standard NDDOT shading patterns must be used. Shading is located in MicroStation, Tasks, RW\_Bndry, Pattern Area.

**20-6.6 PARCEL NUMBERING:** The numbering of the right of way plats and parcels should follow the following convention. New right of way taking is shown on the right of way plat by a numbering system. The first right of way plat will be plat no. 1 of X. The first parcel taking will be numbered 1-1. In other words, plat no. 1 and parcel no. 1. The second parcel would be 1-2, plat no. 1 and parcel no. 2, etc. The numbering of the parcels on the plat will be in order from top to bottom and left to right unless right of way changes. Permanent right of way taking first and attached easements second. In case of another parcel with the same number, from a different project, in a section, the new parcel will be named with a letter added, for example 1A-1.

The NDDOT uses the following types of easements:

- a. Existing easement
- b. Permanent maintenance easement
- c. Temporary Construction easement
- d. Permanent Wetland Mitigation easement
- e. Permanent Roadway easement

**20-6.7 INFORMATION NEEDED TO DEVELOP RIGHT OF WAY PLATS**

The right of way base map is the planimetric map used in the right of way process to the acquisition stage. A new right of way base map is usually needed when a project requires additional right of way or urban development has occurred.

**20-6.7.1 SPECIFICATIONS**

All new right of way plats will be completed using Computer Aided Design and Drafting (CADD) software. The CADD software that is used by the NDDOT is called MicroStation/Geopak. The right of way plats must be completed and delivered in MicroStation/Geopak files. The plats must conform to the NDDOT CADD drafting standards. All necessary resource files and standard files are maintained on the NDDOT web site “[www.dot.nd.gov/manuals/manuals-publications.htm](http://www.dot.nd.gov/manuals/manuals-publications.htm)”

**20-6.7.2 PLAT CONTENT – RW\_bndry.dgn** All existing right of way will be placed in the MicroStation file named R:\project\xxxxxxxx.xxx\ROW\RW\_bndry.dgn”.

Features in this file are:

- All of the existing right of way and dimensions.
- Access points and access lines.
- Adjacent subdivisions.
- Adjacent blocks.
- Adjacent lots.
- Other adjacent property or easements.
- All right of way not owned by the NDDOT.
- Railroad right of way and dimensions.
  - a. All new (proposed) right of way features will also be placed in the above listed directory:
    - Proposed right of way
    - Proposed Easements
    - Description of the ownership interest of the right of way such as fee, easement, dedication, prescription, and the recorders document number.
    - To be set monuments (Reference monuments, R/W monuments and Alignment monuments, see Standard sheet D-720-1)
  - b. The right of way plats will be created on the standard NDDOT template. The blank template (cell) is shown in Section 20-25.
  - c. The centerline of the highway should be positioned as close as possible to midway between the top and bottom of the template (cell). Match lines should be used to keep the map centered. The match lines should be made at section lines, quarter section lines, or on centerlines of dedicated streets.

**RIGHT OF WAY PLATS**

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**20-6.7.3 PLAT CONTENT – Control.dgn**

The following graphics will be added to (referenced in) the planimetric base map, file named “R:\project\xxxxxxxx.xxx\SURVEY\Control.dgn”.

Features in this file will include the following:

- Survey centerline with stationing.
- Identity of existing highways or roadways by name, number, and/or government level.
- Section corners and quarter section corners and (sixteenth corners, if located). Plot the position by coordinates and show the symbol for the type of monument at this position. The position of at least one Public Land Corner or monumented street intersection on the plat is to be shown with reference to the State Plane/County Coordinate System.
- Section lines, quarter lines, (and sixteenth lines if located) should be drafted into the file using proper section breakdown methods to establish them. (See Manual of Surveying Instructions 2009)
- Include all property corner monuments found and indicate the type of monument symbol.
- Centerline of railroad tracks with name of railroad.
- Existing right of way markers.

**20-6.7.4 PLAT CONTENT – Topog.dgn**

The following graphics will be added to the planimetric base map, file named “R:\project\xxxxxxxx.xxx\SURVEY\Topog.dgn”.

Features in this file are:

- Include the utility pedestals. The various lines connecting these utility structures should not be shown on the right of way base map.
- Include the culverts but do not indicate type and size on the right of way base map.
- Include any wells (used or unused) located within 50 feet of the NDDOT right of way.
- Include any underground fuel tanks and sewer systems including septic tanks, outlets, and drain fields.
- Include all surface feature lines along with the type of surface labeled, along with curb and gutter.
- Include all bodies of water and labels for such.
- Include any structures such as bridges, barrier walls, guard rail, and buildings.
- Railroad tracks.

**20-6.7.5 TEXT ANNOTATION**

After the graphics have been placed in the computer file, the annotation (labeling) for the right of way plat can be added. In order to have the annotation placed properly and have a legible map, it is important to reference the Control.dgn and the Topo.dgn into the RW\_Bndry.dgn file to have all of the graphics on the map prior to beginning the annotation for the plat. Guidelines for the graphics to be annotated on the right of way base map are:

- a. Identity of existing roadways by name, number, and/or government level. (Control.dgn)
- b. Section, quarter, and sixteenth corner symbols along with the type of monument and the coordinate values for the section and quarter corners shall be shown to two decimal places. (Control.dgn)
- c. Alignment data (P.I., P.C., P.T., delta angle, degree of curve, radius, and arc length. This information should be shown to the nearest one hundredth (0.01 foot), and the nearest second (angles). (Control.dgn)
- d. Streets, county roads, township roads, and railroads. (Control.dgn)
- e. Rivers, streams, county ditches. Show the name or number. (Topog.dgn)
- f. Buildings. Annotate the name of the establishment of commercial buildings. (Topog.dgn)
- g. Lot, block, subdivision, towns, and corporate limits. (RW\_Bndry.dgn)

**20-6.7.6 PLAT MONUMENTATION**

Each plat must have a sufficient number of monuments placed in the ground to perpetuate the plat boundary. Corners may be identified by:

- a. Previously set monuments. These may be any monuments set on adjoining private or public land. Analysis and verification of the monument should be completed under the direction of a professional land surveyor.
- b. An “Exst Mon Fnd” will be placed in the Control.dgn file and identified on the right of way plat with an open circle symbol (○).
- c. An “Iron Pin Reference Monument” will be identified on the right of way plat with a darkened circle symbol (●).
- d. An “Iron Pin R/W Monument” will be identified on the right of way plat with a darkened circle inside of an open circle symbol (⊙).
- e. An “Alignment Monument” will be identified on the right of way plat with a darkened circle symbol inside of a square (⊛).

## RIGHT OF WAY PLATS

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### 20-7 DISTRIBUTION OF RIGHT OF WAY PLATS

A “Portable Document Format” (.PDF)\* of the proposed right of way plats are furnished to the Federal Highway Administration (FHWA) when authorization to acquire is requested.

After the right of way plats are complete and approved, the original sealed and signed, black and white on heavy weight paper, right of way plats are sent to Design Division for final approval, the Environmental & Transportation Services (ETS), Right of Way (ROW) sends the original sealed and signed plats to the county recorder of the county the project is located. The county recording data is sent to ETS, ROW, scanned, and stored in FileNet.

The color PDF of the right of way plats is stored in the right of way general file (GIS) with the seal removed and the following statement *“This document was originally issued and sealed by (LAND SURVEYOR NAME), Registration Number (NUMBER) on (DATE) and the original document is stored at the County Recorder’s Office”* inserted. A copy of this file is sent to the District Engineer, county auditor, and ASCS Office of the county the project is located in.

Consultants will send the Microstation/Geopak electronic files to the Design Technical Support personnel who will deliver to the Right of Way Plats Section for approval. The Right of Way Plats Section will then send them on to Environmental & Transportation Services to be filed with the county recorder. Plats by consultants shall be submitted at the time ETS, ROW deem the plats to be complete, a final ownership list will be sent to the consultant. After approval, a color PDF of the plats and the Microstation/Geopak right of way CADD files will be sent to the Design Technical Support personnel who will deliver to the Right of Way Plats Section. Any changes to parcels after the initial approval and during the acquisition process need to be noted on the plats in the upper right hand corner giving the parcel number, description of the revision, revision date, and the name or initial of the person that made the revision.

### 20-8 TITLE CERTIFICATES OR ABSTRACTS AND COURT EXHIBITS

The Right of Way Plats Section, in addition to the preparation of all right of way plats and the necessary computation of areas and distances for description purposes, requests all title certificates or abstracts. This section also coordinates right of way layout with Design. It also prepares the necessary court exhibits for condemnation trials. An employee assigned to this section has the responsibility of reviewing titles to rights of way on those highways being transferred to or included in the State Highway System and presently held in the name of townships, county, or other local authority, prior to those interests being transferred to the State.

### 20-9 URBAN AREA BOUNDARIES

Urban area boundaries are generally areas including and adjacent to a municipality or other urban place of 5,000 or more population as shown by the latest Federal census. The boundaries of urban areas are indicated on the right of way plat. This information is achieved only after the city or village plats of record have been properly correlated with the survey centerline. These boundaries are usually required for federal-aid funds designated and participation and are subject to the approval of FHWA. Through a request to city or county zoning authorities, the state has in some instances been able to control and protect proposed rights of way from improvement. The Department of Transportation has no authority of its own in this matter.

\* PDF was developed by Adobe Systems in 1993 as a cross-platform file format which can be easily viewed and printed on any type of computer. It makes it possible for anyone to download and use documents created by specialized software, such as CADD programs, without having to buy and install anything special. PDF files are compact and easily downloaded over the internet.

## RIGHT OF WAY PLATS

### 20-10 SEALS ON RIGHT OF WAY PLATS

The right of way plats must be sealed and signed before they can be recorded at the County Recorder's office in the county where the highway project is located.

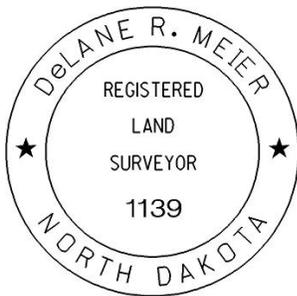
There are four seals that will be used on the right of way plats. Following is the procedure to be used for each seal.

#### 1. THE PRELIMINARY SEAL



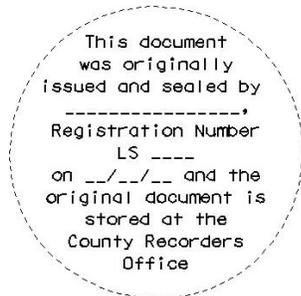
This seal is placed on the right of way plat when creating the plat and must stay on the plat until the plat is ready for filing with the County Recorder. This means the plat is subject to revision and should not be considered the final plat.

#### 2. THE SURVEYOR'S SEAL



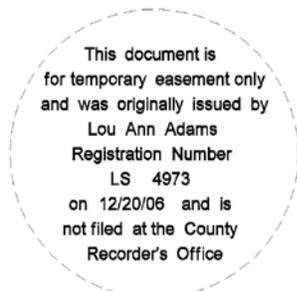
This is the Professional Land Surveyor's seal that is placed on the right of way plat when the plat is ready for recording. The seal must be signed across the face and dated. The right of way plat is sent to the County Recorder for filing.

#### 3. THE LOCATION SEAL



This seal is placed on the digital right of way plats after the original is made. All digital right of way plats stored or transmitted electronically must have this seal on them.

#### 4. THE TEMPORARY EASEMENT SEAL



This seal is placed on the digital temporary easement right of way plats. Do not use this seal if there is any permanent easements on the right of way plat.

**RIGHT OF WAY PLATS****20-11 STATE BOARD OF REGISTRATION  
SURVEY REQUIREMENTS****CHAPTER 28-02.1-13  
DOCUMENTS USED TO CONVEY REAL PROPERTY OR ANY INTEREST  
THEREIN**

## Section

28-02.1-13-01      Survey Requirements for Preparation of Legal Descriptions  
and Conveyance of Property

**28-02.1-13-01. Survey requirements for preparation of legal descriptions and conveyance of property.** Any registrant preparing a description, including without limitation a legal, property, or boundary description for, or assisting in the filing of, a document that will, or may, be used to convey real property or any interest therein, other than easements, including without limitation an auditor's plat, outlot, deed, or conveyance of rights of way, must conduct a survey of the property being conveyed and comply with all the requirements related thereto contained in North Dakota Century Code sections 40-50.1-01 and 40-50.1-02.

Descriptions used in conveyances of rights of way in which possession of title is obtained may be prepared without the setting of all exterior monuments if all four of the following requirements are met:

1. The rights of way are retraceable by using established monuments;
2. Exterior monuments are set wherever there is a change of width to the rights of way;
3. Exterior monuments are set wherever there is a change in direction of the rights of way other than changes of direction at section corners; and
4. Monuments are set at intersections of rights of way with section lines or section line rights of way.

Descriptions used in the conveyance of easements having a term of five years or more must be retraceable in each section of land over which they cross by using established subdivision or public land survey system monuments existing or placed at the time of the easement conveyance.

**History:** Effective October 1, 2004; amended effective July 1, 2009.

**General Authority:** NDCC 43-19.1-08

**Law Implemented:** NDCC 43-19.1-01, 43-19.1-08

**20-12 CENTURY CODE LAW ON PLATTING REQUIREMENTS**  
**CHAPTER 40-50.1**  
**PLATTING OF TOWNSITES**

**40-50.1-01. Laying out townsites, additions, and subdivisions -Survey and plat required -Contents of plat.** Any person desiring to layout a townsite, an addition to a townsite, or a subdivision of land shall cause the land to be surveyed and a plat made of the land. The written plat must comply with the following:

1. The plat must describe particularly and set forth all the streets, alleys, and public grounds, and all outlots or fractional lots within or adjoining the townsite or jurisdiction, together with the names, widths, courses, boundaries, and extent of all such streets, alleys, and public grounds, and giving the dimensions of all lots streets, alleys, and public grounds.
2. All lots and blocks, however designated, must be numbered in progressive numbers and their precise length, width, and area be stated on the map or plat. The streets, alleys, or roads which divide or border the lots must be shown on the map or plat.
3. The plat must indicate that all outside boundary monuments have been set, and indicate those interior monuments that have been set. There must be shown on the plat all survey and mathematical information, including bearings and distances, and data necessary to locate all monuments and to locate and retrace all interior and exterior boundary lines appearing on the plat. All interior lot lines and exterior boundary lines of the plat must be correctly designated on the plat and show bearings on all straight lines, or angles at all angle points, and central angle, radius, and arc length for all curves. All distances must be shown between all monuments as measured to the hundredth of a foot [0.3048 centimeters]. All lot distances must be shown on the plat to the nearest hundredth of a foot [0.3048 centimeters] and all curved lines within the plat must show central angles, radii, and arc distances. A north arrow and the scale of the plat must be shown on the plat. The scale must be of a dimension that the plat may be easily interpreted. If a curved line constitutes the line of more than one lot in any block of a plat, the central angle for that part of each lot on the curved line must be shown.
4. Ditto marks may not be used on the plat for any purposes.
5. If a river, stream, creek, or lake constitutes a boundary line within or of the plat, a survey line must be shown with bearings or angles and distances between all angle points and their relation to a waterline, and all distances measured on the survey line between lot lines must be shown, and the survey line shown as a dashed line.
6. The unadjusted outside boundary survey and the plat survey data must close by latitude and departure with an error that does not exceed one part in ten thousand parts.
7. All rivers, streams, creeks, lakes, and all public highways, streets, and alleys of record must be correctly located and plainly shown and designated on the plat.
8. The names and adjacent boundary lines of any adjoining platted lands must be dotted on the plat.
9. The scale must be shown graphically and the basis of bearings must be shown. The plat must be dated as to the completion of the survey and preparation of the plat.

**RIGHT OF WAY PLATS**

10. The purpose of any easement shown on the plat must be clearly stated. Building setbacks may not be shown on the plat.
11. Any plat which includes lands abutting upon any lake, river, or stream must show a contour line denoting the present shoreline, water elevation, and the date of survey. If any part of a plat lies within the one hundred year flood plain of a lake, river, or stream as designated by the state engineer or a federal agency, the mean sea level elevation of that one hundred year flood must be denoted on the plat by numerals. Topographic contours at a two-foot [60.96-centimeter] contour interval referenced to mean sea level must be shown for the portion of the plat lying within the flood plain. All elevations must be referenced to a durable bench mark described on the plat with its location and elevation to the nearest hundredth of a foot [0.3048 centimeters], which must be given in mean sea level datum.

**40-50.1-02. Monuments required for survey –Destruction – Penalty.**

Durable ferromagnetic monuments must be set at all angle and curve points on the outside boundary lines of the plat. The monuments must be at least eighteen inches [45.72 centimeters] in length and at least one-half inch [1.27 centimeters] in sectional dimension. Any monument of the survey must bear the registration number of the land surveyor making the survey. Any person who disturbs, removes, or destroys any surveyor reference monument or landmark evidencing a property line or corner post is guilty of a class B misdemeanor.

**40-50.1-03. Instruments of dedication -Certifying and recording plat.**

The plat must contain a written instrument of dedication, which is signed and acknowledged by the owner of the land. When there is divided ownership, there must be indicated under each signature the lot or parts of lots in which each party claims an interest. All signatures on the plat must be written with black ink, not ball point. The instrument of dedication must contain a full and accurate description of the land platted. The registered land surveyor shall certify on the plat that the plat is a correct representation of the survey, that all distances are correct and monuments are placed in the ground as shown, and that the outside boundary lines are correctly designated on the plat. The dedication and certificate must be sworn to before an officer authorized to administer an oath. The plat must be presented for approval to the governing body affected by the plat, together with a copy of a title insurance policy or an attorney's opinion of title, running to the benefit of the governing body affected by the plat, stating the name of the owner of record.

**40-50.1-04. Recording plat.**

Upon final approval of a plat under section 11-33.2-11 or 40-48-21, the subdivider shall record the plat in the office of the recorder of the county where the plat is located. Whenever plat approval is required by a jurisdiction, the recorder may not accept any plat for recording unless the plat officially notes the final approval of the governing body of the jurisdiction and acknowledgment of the planning and zoning commission.

**40-50.1-05. Conveyance of land by noting or marking map or plat -Status as general warranty –Land for public use.**

When the plat has been made out and certified, acknowledged, and recorded as required by sections 40-50.1-01, 40-50.1-03, and 40-50.1-04, every donation or grant to the public, or to any individual, religious society, corporation, or limited liability company, marked or noted as such on the plat or map is a sufficient conveyance to vest the fee simple title in the parcel of land as designated on the plat. The mark or note made on a plat or map is for all intents and purposes a general warranty against the donors, their heirs and representatives, to the donees or grantees for the expressed and intended uses and purposes named in the plat and for no other use or purpose. The land intended to be used for the streets,

## **RIGHT OF WAY PLATS**

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alleys, ways, or other public uses in any jurisdiction or addition thereto must be held in the corporate name of the jurisdiction in trust for the uses and purposes set forth and expressed and intended.

### **40-50.1-06. Correction of plats -Declaration of necessity by resolution - Publication.**

If any part of any platted addition, outlot, or parcel of ground, in any jurisdiction, is found to be inadequately or erroneously described in the plat, or if the plat is in error or is deficient as to marked or scaled distances, angles, or descriptions, or has other defects which make it incorrect or deficient, the governing body of the jurisdiction, by resolution, may declare it necessary to correct the plat or plats or to replat the property. In that case, the resolution must be published in the official newspaper of the jurisdiction at least ten days before the meeting of the governing body to consider objections to the procedure.

### **40-50.1-07. Resolution declaring necessity for correcting plat -Contents.** The resolution mentioned in section 40-50.1-06 must set forth:

1. The description of the property affected.
2. The nature of the errors or defects.
3. An outline of the proposed corrections.
4. An estimate of the probable cost of having the corrections made.
5. Notice that any interested owner may file objections to the proposed work or to its cost and that the objections will be heard and considered at a meeting designated for that purpose.
6. The time the governing body of the jurisdiction will meet to consider all the objections.

### **40-50.1-08. Governing body to order work done after hearing objections.**

After all the objections filed before the meeting have been heard and considered, the governing body of the jurisdiction, if it deems the work advisable and if the owners of the majority of the property affected have not filed a protest, shall order a land surveyor registered in this state to do the work in accordance with the resolution. If no interested owner has demanded the resurvey, the jurisdiction shall pay for the resurvey.

### **40-50.1-09. Requirements governing land surveyor in correcting plat or in replatting -Affidavit and certification.**

The land surveyor designated to make the correction or to do the replatting shall follow the original hubs, stakes, monuments, and lines, and, by actual survey and measurements on the ground, shall make the plat conform to the divisions, subdivisions, blocks, lots, outlots, pieces, and parcels of land as originally laid out. All lost or disputed points, lines, and angles must be determined by actual survey and made to conform with the original survey and must be marked on the ground in a manner customary and as is provided in sections 40-50.1-01 through 40-50.1-17. All numbers, letterings, and names of references to blocks, lots, outlots, additions, streets, avenues, and alleys, must be the same as on the original plat, and the revised and corrected plat must be a true plat of the survey as made originally. The registered land surveyor shall make an affidavit and certificate that the plat has been made to the best of the land surveyor's ability. The registered land surveyor shall affix that affidavit and certificate to the plat.

### **40-50.1-10. Filing completed plat -Publication of notice of completed plat.**

The completed plat must be filed with the chief administrative officer of the jurisdiction, who shall publish a notice of the filing. The notice must stipulate that all interested parties may view the plat. The notice must set the date the governing body of the jurisdiction will meet to hear and consider objections to the survey as made and must be published at least ten days before the hearing.

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**40-50.1-11. Resurveys to determine merits of objections.**

After hearing objections to the corrected plat, the governing body may order surveys and resurveys to determine the merit of any claim or objection. The governing body may adjourn the hearing until the necessary information is available.

**40-50.1-12. Acceptance or rejection of corrected plat -Recording -Effect of corrected plat.**

After completing the hearing, the governing body shall affirm or reject the corrected plat by resolution. If the plat is affirmed by a majority vote of the governing body, the plat must be recorded in the office of the recorder within sixty days and a blueprint of the plat must be filed in the office of the chief administrative officer. The plat so recorded and filed is the true and correct plat of the property described and supersedes all previous plats.

**40-50.1-13. Assessment of costs of new plat -Publication of assessments - Approval of assessments.**

The chief administrative officer shall assess the cost of making the plat against the properties benefited proportionally to the benefits received. The assessments are subject to the approval of the governing body of the jurisdiction after due consideration and hearing of all objections at a meeting designated for that purpose. At least ten days before the hearing, the assessments must be published in full by the chief administrative officer of the jurisdiction in the official newspaper of the jurisdiction. The chief administrative officer shall certify the assessments, when approved by the governing body.

**40-50.1-14. notice of errors on recorded plat – Certificate by original surveyor.**

Notwithstanding section 40-50.1-06, if a plat, or what purports to be a plat, has been signed and filed in the office of the recorder of the county where the land is situated, and the plat fails to identify or correctly describe the land to be so platted or subdivided, or to show correctly on its face the tract of land intended or purported to be platted or subdivided, or is defective because the plat or subdivision and the description of land purported to be so platted or subdivided is inconsistent or incorrect, the registered land surveyor who prepared the plat may sign a certificate stating the nature of the error, omission, or defect and stating the information that surveyor believes corrects the error, supplies the omission, or cures the defect, referring, by correct book and page or document number, to the plat or subdivision and designating its name, if it has a name. The registered land surveyor shall date and sign the certificate.

**40-50.1-15. filing and recording of surveyor's certificate.**

The recorder of the county in which the land platted or subdivided is located shall accept each certificate for filing and recording upon payment of a fee commensurate with the length of the certificate. Neither witnesses nor acknowledgment is required on any such certificate, but it must be signed by the registered land surveyor and must include a statement that the signing surveyor holds valid registration in this state. The recorder shall make suitable notations on the record of the plat or subdivision to which the certificate refers to direct the attention of anyone examining the plat or subdivision to the record of that certificate. No such certificate has the effect of destroying or changing vested rights acquired based on an existing plat or subdivision despite errors, defects, or omissions.

**40-50.1-16. Vacation of plat -Before and after sale of lots -Effect.**

1. Before the sale of lots, a plat, any part of a plat, a subdivision of land, or a townsite may be vacated by the proprietors by a written instrument declaring the plat to be vacated. The instrument must be signed, acknowledged or approved, and recorded in the office in which is recorded the instrument to be vacated. The signing and recording of that instrument destroys the force and effect of the recording of the plat which is so vacated and divests all public rights in the streets, alleys, easements, and public grounds laid out as described in the plat.

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- 2. If lots have been sold, a plat or any part of a plat may be vacated by all owners of the lots in the plat joining in the signing of the instrument declaring the vacation. Vacation of streets and public rights is not effective without endorsement by the governing body that has the power to approve the plat. The endorsement must indicate the public rights to be vacated.

**40-50.1-17. Action by recorder.**

The recorder shall write in plain, legible letters, in black ink that is not ballpoint ink, across that part of a plat which has been vacated the word "vacated" and shall make a reference on the plat to the volume and page or document number in which the instrument of vacation is recorded.

**20-12.1 CENTURY CODE LAW ON DUTIES OF RECORDER**

**43-19.1-30 Duties of recorder.**

It is unlawful for the recorder of any county or any proper public authority to file or record any map, survey, or other document within the definition of land surveying, which does not have impressed thereon and affixed thereto, the personal signature and seal of a registered professional land surveyor by whom the map, plat, survey, or other document was prepared.

Pat Krieger  
NDDOT  
608 E Blvd Ave  
Bismarck, ND 58505-0700

July 31, 2006



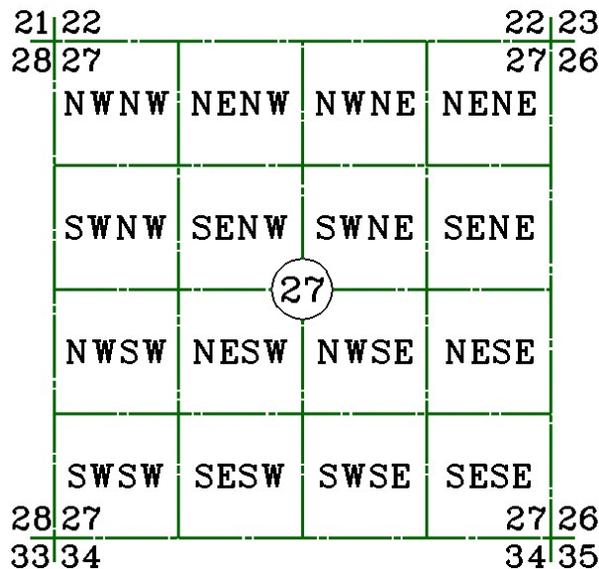
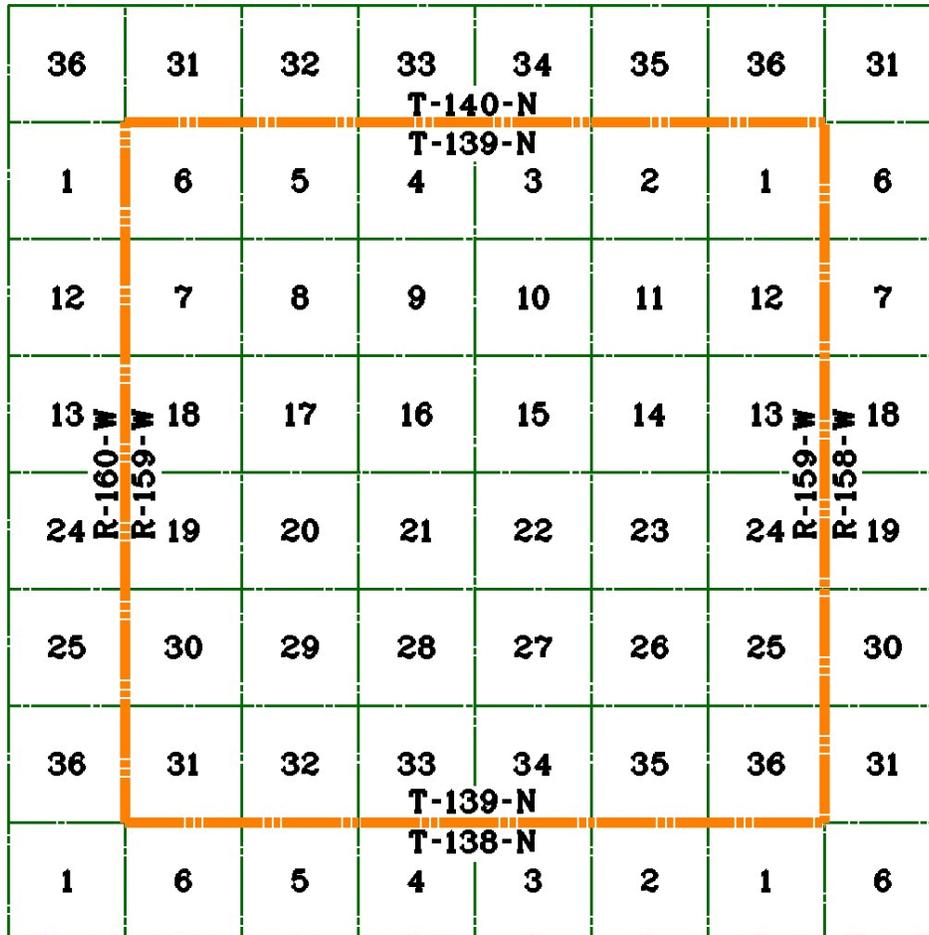
RE: Access Points to Plats

At the annual Recorders Convention last week Karen Samek presented your question about adding access points to an existing plat, and what requirements the Recorders needed to do the recording. Yes we will need the label certifying to the authenticity of the copy you will be presenting for recording. Also we will need an Affidavit attached to the certified plat. I have enclosed a copy of the NDCC stating the requirements for this procedure. The NDCC is 40-50.1-09. I hope this will be of some help to you. Thank You and if you have any questions please do not hesitate to call.

Linda Rohrbach, President  
North Dakota Recorders Association

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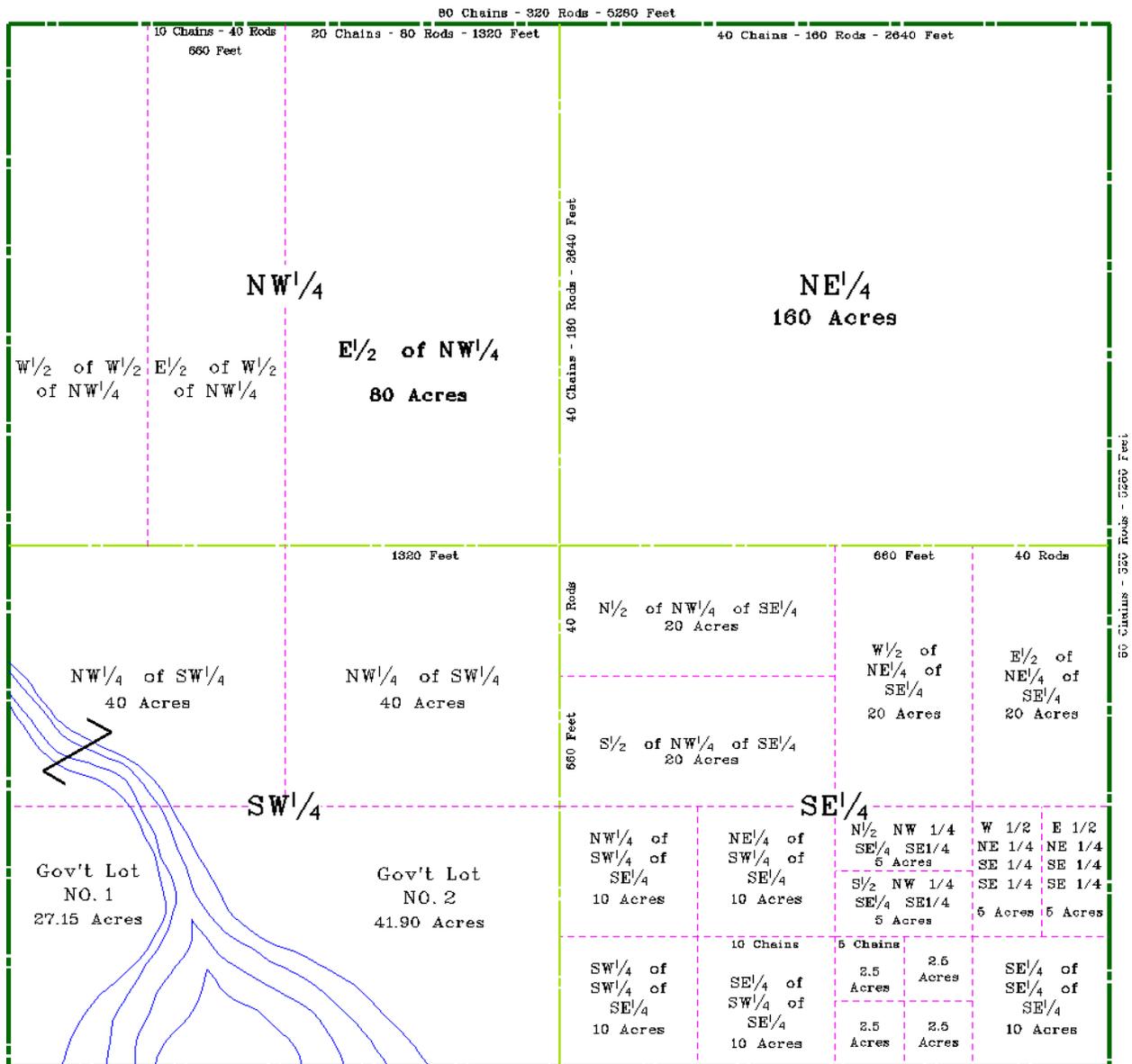
### 20-13 TYPICAL SECTION AND TOWNSHIP PLAT DIAGRAM



## RIGHT OF WAY PLATS

### 20-14 SUBDIVISION OF A SECTION OF LAND

The division of a section of land into the most common subdivisions used in North Dakota is shown. The dimension of each subdivision of a standard section in feet, rods, and chains is illustrated as well as the number of acres for each of the subdivisions.



NOTE: This section would be on the north or west tier of a township.  
Government Lots would generally be located on the north or west side.

## 20-15 CENTURY CODE LAWS

- 20-15.1 COPY OF THE "ACT OF THE LEGISLATIVE ASSEMBLY OF DAKOTA TERRITORY (LAWS 1871, CHAPTER 33) "RELATING TO SECTION LINES.

PUBLIC HIGHWAYS.

CHAPTER XXXIII.

AN ACT REGULATING THE LAYING OUT OF PUBLIC HIGHWAYS.

*Be it enacted by the Legislative Assembly of the Territory of Dakota:*

SECTION 1. That hereafter all section lines in this Territory shall be and are hereby declared public highways as far as All section lines to be public highways.

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PUBLIC HIGHWAYS.

practicable: *Provided*, That nothing in this act shall be so construed to interfere with existing highways in the settled portions of the Territory: *Provided*, That the provisions of this act shall not apply to that portion of Pembina county laying between the Red River and Pembina River for a distance of three miles south of the town of Pembina, unless by consent of the commanding officer of Fort Pembina and the owners of property adjoining the military reservation.

When to take effect.

SEC. 2. This act shall take effect from and after its passage and approval.

Approved, January 12th, 1871.

**RIGHT OF WAY PLATS****20-15.2 CHAPTER 24-01 STATE HIGHWAY SYSTEM LAWS****24-01-25. Fees not charged for recording instruments.**

No fees may be charged or collected by the county auditor, the recorder, or the clerk of court for any services rendered for the recording or filing of any document required under the provisions of chapter 177 of the 1953 Session Laws.

**24-01-27. Survey- Plat -Damages from survey.**

Whenever the director determines by order that public exigency requires the taking of land or materials as provided in section 24-01-18, the director shall cause the same to be surveyed and described, and a plat thereof approved by the county auditor and the said description must be recorded in the office of the recorder of the county wherein the same is located. When such plat has been approved and recorded, any description of the property in accordance with the parcel or lot number and description set forth in such plat must be deemed a good and valid description of the lots or parcels of land so described. No such plat or description may bear the name or number which has been applied to any plat or description previously made and recorded. The director, or the director's duly authorized agents, may enter upon any land for the purpose of making surveys, examinations, or tests. In case of any damages to said premises, the director forthwith shall pay to the owner of said premises the amount of such damages.

**20-15.3 CHAPTER 24-07 OPENING AND VACATING HIGHWAYS****24-07-03. Section lines considered public roads open for public travel Closing same under certain conditions.**

In all townships in this state, outside the limits of incorporated cities, and outside platted townsites, additions, or subdivisions recorded pursuant to section 40-0.1-01 through 40-50.1-17 or recorded prior to July 1, 1987 under former chapter 40-50, the congressional section lines are considered public roads open for public travel to the width of thirty-three feet [10.06 meter] on each side of the section lines. The board of county commissioners if petitioned by a person having an interest in the adjoining land or a portion thereof, after public hearing and a finding by the commissioners of public benefit, may close section lines or portions thereof which are not used for ten years, are not traveled due to natural obstacles or difficulty of terrain, are not required due to readily accessible alternate routes of travel, or are intersected by interstate highways causing the section line to be dead-end, providing the closing of the dead-end section line does not deprive adjacent landowners access to the landowner's property. After the section lines are closed, they may be used to the benefit of the adjacent landowners. However, survey or property reference monuments may not be disturbed, removed, or destroyed. If drainage is interfered with due to the farming operations, alternate means of drainage must be provided for by the landowners or tenants farming the lands.

**20-15.4 CHAPTER 177 OF THE 1953 SESSION LAWS****§ 97. FEES NOT CHARGED FOR RECORDING INSTRUMENTS.**

No fees shall be charged or collected by the county auditor, the register of deeds, or the clerk of court, for any services rendered for the recording or filing of any document

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required under the provisions of this Act.

**20-15.5      CHAPTER 47-19 DEEDS AND CONTRACTS FOR DEEDS TO  
INCLUDE NAME AND ADDRESS OF DRAFTER OF LEGAL  
DESCRIPTION**

**47-19-03.1 Deeds and contracts for deeds to include name and address of  
drafter of legal description.**

The recorder may not record a deed or contract for deed containing a metes and bounds legal description which affects the title to or possession of real property that otherwise may be recorded under this chapter unless the name and address of the individual who drafted the legal description contained in the deed or contract for deed appears on the instrument in a legible manner. A deed or contract for deed complies with this section if it contains a statement substantially in the following form: "The legal description was prepared by \_\_\_\_\_ (name) \_\_\_\_\_ (address) or obtained from a previously recorded instrument." This section does not apply to any instrument executed before January 1, 2000, or any instrument executed or acknowledged outside the state. The validity and effect of the record of any instrument in a recorder's office may not be lessened or impaired by the fact the instrument does not contain the statement required by this section.

**20-15.6      CHAPTER 47-20.1 SURVEY AND CORNER RECORDATION ACT**

**47-20.1-01. Purpose.**

It is the purpose of this chapter to protect and perpetuate public land survey corners and information concerning the location of such corners by requiring the systematic establishment of monuments and recording of information concerning the marking of the location of such public land survey corners and to allow the systematic location of other property corners, thereby providing for property security and a coherent system of property location and identification of ownerships, and thereby eliminating the repeated necessity for reestablishment and relocations of such corners where once they were established and located, and, to authorize any registered land surveyor to locate, erect, maintain, record and perpetuate landmarks, monuments, section corners, quarter corners, meander lines or boundary lines heretofore or hereafter established.

**47-20.1-02. Definitions.**

Except where the context indicates a different meaning, terms used in this chapter shall be defined as follows:

1. "Accessory corner" means any exclusively identifiable physical object whose spatial relationship to the corner is recorded. Accessories may be bearing trees, bearing objects, monuments, reference monuments, line trees, pits, mounds, charcoal filled bottles, steel or wooden stakes or other objects.
2. "Corner", unless otherwise qualified, means a property corner, or a property controlling corner, or a public land survey corner, or any combination of these.
3. "Monument" means an accessory that is presumed to occupy the exact

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- position of a corner.
4. "Practice of land surveying" means the assuming of responsibility for the surveying of land for the establishment of corners, lines, boundaries, and monuments, the laying out and subdivision of land, the defining and locating of corners, lines, boundaries, and monuments after they have been established, the survey of land areas for the purpose of determining the topography thereof, the making of topographical delineations, and the preparing of maps and accurate records thereof, when the proper performance of such services requires technical knowledge and skill.
  5. "Property controlling corner" means a public land survey corner, or any property corner, which does not lie on a property line of the property in question, but which controls the location of one or more of the property corners of the property in question.
  6. "Property corner" means a geographic point on the surface of the earth, and is on, a part of, and controls a property line.
  7. "Public land survey corner" means any corner actually established and monumented in an original survey or resurvey used as a basis of legal description for issuing a patent for land to a private person from the United States government.
  8. "Reference monument" means a special monument that does not occupy the same geographical position as the corner itself, but whose spatial relationship to the corner is recorded, and which serves to witness the corner.
  9. "Registered land surveyor" means a surveyor who is registered to practice land surveying under chapter 43-19.1 regulating the registration and practice of professional engineering and land surveyors, or who is authorized under said chapter to practice land surveying as defined herein.

**47-20.1-03. Filing of corner record required.**

A surveyor shall complete, sign, stamp with the surveyor's seal and file with the recorder of the county where the corner is situated a written record of corner establishment or restoration to be known as a "corner record" for every public land survey corner and accessory to such corner which is established, reestablished, monumented, remonumented, restored, rehabilitated, perpetuated, or used as control in any survey by such surveyor, and within ninety days thereafter, unless the corner and its accessories are substantially as described in an existing corner record filed in accord with the provisions of this chapter.

**47-20.1-04. Filing permitted as to any property corner.**

A registered land surveyor may file such corner record as to any property corner, property controlling corner, reference monument, or accessory to a corner.

**47-20.1-05. Form to be prescribed by board.**

The state board of registration for professional engineers and land surveyors provided for in chapter 43-19.1 shall by regulations provide and prescribe the information which shall be necessary to be included in the corner record. The board shall prescribe the form in which such corner record shall be presented and filed.

**47-20.1-06. Recorder to receive, file, and cross reference.**

1. The recorder of the county containing the corner shall receive the completed corner record and preserve it in a hardbound book. The books shall be numbered in numerical order as filed.
2. The recorder shall number the forms in numerical order as they are filed.
3. The book and page number in which the said corner record is filed shall be placed by the recorder near that same corner on a cross-index plat which the recorder shall provide for such purpose.
4. The recorder shall make these records available for the public inspection during all usual office hours.

**47-20.1-07. Official corner record.**

When such a corner described herein has been established and tiled, that corner record shall be the official record and shall be made available to all state and federal government agencies without cost; however, the recorder may charge a reasonable fee for furnishing certified copies of the official record to all other persons.

**47-20.1-08. Recorder may charge filing fee.**

The recorder of a county may charge a filing fee as provided by section 11-18-05 for the filing of each corner record as defined in section 47-20.1-02.

**47-20.1-09. Surveyor must rehabilitate monuments.**

In every case where a corner record of a public land survey corner is required to be filed under the provisions of this chapter, the surveyor must reconstruct or rehabilitate the monument of such corner and accessories to such corner, so that the same shall be left by him in such physical condition that it remains as permanent a monument as is reasonably possible and so that the same may be reasonably expected to be located with facility at all times in the future.

**47-20.1-10. Minimum corner requirements.**

The registered land surveyor establishing or rehabilitating corner markers shall place as a minimum acceptable marker, a durable ferromagnetic monument not less than eighteen inches [45.72 centimeters] in length and not less than one-half inch [12.7 millimeters] in sectional dimension driven to a survey elevation depth to which is affixed a cap bearing the center point and the registered land surveyor's certificate number firmly impressed thereon.

**47-20.1-11. Corner records to be certified.**

No corner record shall be filed unless the same is signed by a registered land surveyor and stamped with the surveyor's seal.

**47-20.1-12. Disturbance of survey corners -Penalty.**

No United States government survey corner nor any corner established by any registered land surveyor, monumented as herein prescribed, shall be disturbed, removed, or in any manner changed by any person in the prosecution of any public or private work. Whoever shall violate any of the provisions of this section shall be guilty of an infraction.

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### **47-20.1-13. Short title.**

This chapter may be cited as the Survey and Corner Recordation Act of North Dakota.

### **20-16 FORM (DOT 10016) - EXIGENCY RESOLUTION AND ORDER FOR ACQUISITION OF LAND**

#### **EXIGENCY RESOLUTION AND ORDER FOR ACQUISITION OF LAND**

North Dakota Department of Transportation, Design Division  
DOT 10016 (Rev. 11-2002)

In accordance with NDCC Section 24-01-27, the Director hereby deems it necessary and of public exigency that certain lands and interest in lands be acquired for highway purposes and public use in order to provide sufficient facilities for present and future traffic and to provide proper location and alignment for that certain state highway project designated as follows:

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THEREFORE, BE IT AND IT IS HEREBY ORDERED by the North Dakota Department of Transportation Director; that all necessary surveys be made and plats thereof prepared and recorded in the office of the Register of Deeds of each county in which said lands may be located; and

THAT public exigency requires that every tract of land so needed for the completion of said project be acquired;

ALL in accordance with Article 1, Section 16 of the Constitution of North Dakota and the applicable provisions of law, and the Deputy Director for Engineering is hereby authorized and instructed to proceed accordingly.

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

\_\_\_\_\_  
Director

Attest:

\_\_\_\_\_  
Design Engineer

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**FORM (SFN 14077) - EXIGENCY RESOLUTION AND ORDER FOR ACQUISITION OF LAND/DECLARATION OF CONTROLLED ACCESS HIGHWAY.**

**EXIGENCY RESOLUTION AND ORDER FOR ACQUISITION OF LAND AND DECLARATION OF CONTROLLED ACCESS HIGHWAY**

North Dakota Department of Transportation, Design Division  
DOT 14077 (Rev. 11-2002)

In accordance with NDCC Section 24-01-27, the Director hereby deems it necessary and of public exigency that certain lands and interest in lands be acquired for highway purposes and public use in order to provide sufficient facilities for present and future traffic and to provide proper location and alignment for that certain state highway project designated as follows:

\_\_\_\_\_  
\_\_\_\_\_

THEREFORE, BE IT AND IT IS HEREBY ORDERED by the North Dakota Department of Transportation Director; that all necessary surveys be made and plats thereof prepared and recorded in the office of the Register of Deeds of each county in which said lands may be located; and

THAT public exigency requires that every tract of land so needed for the completion of said project be acquired;

ALL in accordance with Article 1, Section 16 of the Constitution of North Dakota and the applicable provisions of law, and the Deputy Director for Engineering is hereby authorized and instructed to proceed accordingly.

In the interest of the health, welfare, and safety of the motoring public, that section of state highway described above, is declared a controlled access facility and to that end, any right of access shall be acquired in the same manner as the required land.

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

\_\_\_\_\_  
Director

Attest:

\_\_\_\_\_  
Design Engineer

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**20-17 RIGHT OF WAY TERMS AND DEFINITIONS**

The following definitions of words and phrases are those normally used in their commonly accepted form. Those words or phrases for which definitions have been adapted by the American Association of State Highway and Transportation Officials are indicated by (AASHTO) after the definition.

<b>AASHTO</b>	American Association of State Highway and Transportation Officials
<b>ABANDONMENT</b>	Cessation of use of right of way or activity thereon with no intention to reclaim or use again for highway purposes. (Sometimes called Vacation.) (AASHTO)
<b>ACQUISITION FOR TAKING</b>	The process of obtaining right of way. (AASHTO)
<b>ALIQOT</b>	Dividing without a remainder; submultiple. The word usually appears as aliquot part, i.e., a number which is a submultiple of another. See also, description by aliquot parts.
<b>BENEFIT, GENERAL</b>	Advantage accruing from a given highway improvement to a community as a whole, applying to all property similarly situated. (AASHTO)
<b>BENEFIT, SPECIAL</b>	Advantage accruing from a given highway improvement to a specific property and not to others generally. (AASHTO)
<b>CLOSING</b>	Final transactions between parties completing transfer of title to property conveyed, payment of consideration, release of liens, etc.
<b>COMPARABLE SALE</b>	A sale completed by an actual market transaction that is used in the process of correlation and analysis for the subject property to estimate its market value.
<b>COMPENSATION, DIRECT</b>	Payment for land or interest in land and improvements actually acquired for highway purposes. {Sometimes called Direct Damages.} (AASHTO)
<b>COMPENSATION, JUST</b>	A full and fair equivalent for the loss sustained by the owner as a result of taking or damaging of private property for highway purposes. (AASHTO)
<b>CONDEMNATION</b>	The process by which property is acquired for highway purposes through legal proceedings under power of eminent domain. (AASHO)

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<b>CONDEMNATION, INVERSE</b>	The legal process by which a property owner may claim and receive compensation for the taking of, or payment for damages to, his property as a result of a highway improvement.(AASHTO)
<b>CONSEQUENTIAL DAMAGES</b>	Loss in value of a parcel, no portion of which is acquired, resulting from a highway improvement. { AASHTO)
<b>CONVEYANCE</b>	A written instrument by which a title, estate or interest in property is transferred. (AASHTO)
<b>DEDICATION</b>	The setting apart by the owner and acceptance by the public of property for highway use, in accordance with statutory or common law provisions. (AASHTO)
<b>DESCRIPTION</b>	A written description of the boundaries of a piece of land, presumably sufficient and accurate enough that the boundaries can be found and identified from the description. Four types of descriptions are common in the USA: description by metes and bounds, verbal description by reference to a map, description by reference to natural objects and adjoiners, and the United States Public Land System (USPLS).
<b>DESCRIPTION, CENTER-LINE</b>	A method of describing a long comparatively narrow strip of land by establishing a central line along the strip and defining the boundaries by distances from the central line.
<b>DESCRIPTION, LEGAL</b>	(1) A description, recognized by law, which definitely locates property by reference to governmental surveys, coordinate systems, or recorded maps. (2) A description which is sufficient to locate the property without oral testimony.
<b>DESCRIPTION, METES AND BOUNDS</b>	The designation of a parcel of land by stating the courses and distances around it, or by calling for recorded monuments.
<b>DESCRIPTION, BY ALIQUOT PARTS</b>	(United States Public Land Survey) A description as aliquot parts of large parcels, the aliquot parts of which are not less than 10 acres.
<b>DEED</b>	A duly attested, written instrument, under seal, conveying real property or interest therein. (American Association of State Highway and Transportation Officials)

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<b>DEED, QUITCLAIM</b>	A deed conveying, without warranty, any title, interest, or claim which the grantor may have in the estate conveyed. (AASHTO)
<b>DEED, WARRANTY</b>	A deed containing covenants by the grantor, for himself and his heirs, to the grantee and his heirs, to warrant and defend the title and possession of the estate conveyed. (AASHTO)
<b>DONATION</b>	The voluntary conveyance of private property to public ownership and use, without compensation to the owner. {AASHTO}
<b>EASEMENT</b>	A right acquired by public authority to use or control property for a designated highway purpose. (AASHTO)
<b>EASEMENT, DRAINAGE</b>	An easement for directing the flow of water. (AASHTO)
<b>EASEMENT, PLANTING</b>	An easement for reshaping roadside areas and establishing, maintaining and controlling plant growth thereon. (AASHTO)
<b>EASEMENT, SCENIC</b>	An easement for conservation and development of roadside views and natural features. (AASHTO)
<b>EASEMENT, SIGHT LINE</b>	An easement for maintaining or improving the sight distance.
<b>EASEMENT, SLOPE</b>	An easement for cuts or fills. (AASHTO)
<b>EGRESS</b>	Act of going out or leaving; emergence.
<b>EMINENT DOMAIN</b>	The power to take property for public use with just compensation therefore. (AASHTO)
<b>ET AL</b>	And others; or and other .
<b>ET UX</b>	And wife.
<b>EX PARTE</b>	On behalf of, on the application of, or by one party only.
<b>EXIGENCY</b>	The state or quality of being exigent. A pressing or urgent situation.
<b>EXIGENT</b>	Requiring immediate attention or remedy: urgent.
<b>FEE SIMPLE</b>	An absolute estate or ownership in property including unlimited power of alienation. (AASHTO)

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<b>FHWA</b>	U.S. Department of Commerce, Federal Highway Administration, Washington 25, D.C.
<b>GRANTEE</b>	A person to whom real estate is conveyed, the buyer.
<b>GRANTOR</b>	A person who conveys real estate, the seller.
<b>HIGHEST AND BEST USE</b>	The most productive use, reasonable but not speculative or conjectural, to which property may be put in the future.(AASHTO)
<b>HIGHWAY DEVELOPMENT RIGHT</b>	The right of owners to make changes in abutting property uses, which, if exercised, would be inconsistent with present and future highway needs. (AASHTO)
<b>INTESTATE</b>	Without a will; a person who has died without leaving a will.
<b>LIFE ESTATE</b>	An estate or interest held during the term of some person's life.
<b>LIS PENDENS</b>	Suit pending, An instrument required to be filed with the County Recorder to indicate that a jurisdictional offer has been served on an owner .
<b>MARKET VALUE</b>	The highest price for which property can be sold in the open market by a willing seller to a willing purchaser, neither acting under compulsion and both exercising reasonable judgment. (North Dakota State Statutes) (AASHTO)
<b>NEGOTIATION</b>	The process by which property is sought to be acquired for highway purposes through discussion, conference, and final agreement upon the terms of a voluntary transfer of such property. (AASHTO)
<b>OPTION</b>	A written agreement granting a privilege to acquire property or interest therein at a fixed price within a specified period. (AASHO)
<b>OUTLOT</b>	In early American land law (particularly in Missouri), a lot or parcel of land lying outside the corporate limits of a town or village but subject to its municipal jurisdiction or control. The term now generally refers to an area of land on a plat which is to be used for a purpose other than a building site.
<b>PARCEL</b>	A part or portion of land.

**RIGHT OF WAY PLATS**

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<b>PARCEL PLAT</b>	A map of a single parcel of property or portion thereof needed for highway purposes, showing the boundaries, areas, the remainder improvements, access, ownership and other pertinent information. (AASHTO)
<b>PARTIAL TAKING</b>	The acquisition of a portion of a property.
<b>PERSONALTY</b>	Article of property that is not real estate.
<b>POLICY</b>	A settled course adopted and followed by a government agency, institution, body or individual.
<b>RIGHT OF IMMEDIATE POSSESSION</b>	The right to occupy property for highway purposes, after preliminary steps for acquisition have been taken and before final settlement. (AASHTO)
<b>RIGHT OF SURVEY ENTRY</b>	The right to enter property temporarily to make surveys and investigations for proposed highway improvement. (AASHTO)
<b>RIGHT OF WAY STRIP MAP</b>	A plan of a highway improvement showing its relation to adjacent property, the parcels or portions thereof needed for highway purposes, and other pertinent information. (AASHTO)
<b>RELOCATION ADVISORY ASSISTANCE</b>	Services under federal, state or local law to give advisory assistance in the relocation of persons who have been displaced from their homes, businesses, etc., as a result of the acquisition of private property for public improvements.
<b>REMAINDER</b>	The portion of a parcel retained by the owner after a part of such parcel has been acquired. (AASHTO)
<b>REMNANT</b>	A remainder so small or irregular that it usually has little or no economic value to the owner. (AASHTO)
<b>RIGHT OF ACCESS</b>	The right of ingress to a highway from abutting land and egress from a highway to abutting land. (AASHTO)
<b>RIGHT OF WAY</b>	A general term denoting land, property, or interest therein, usually in a strip, acquired for or devoted to a highway (AASHTO)

**RIGHT OF WAY PLATS**

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<b>RIGHT OF WAY APPRAISAL</b>	An estimation of the market value of property including damages, if any, as of a specified date, resulting from an analysis of facts.
<b>RIGHT OF WAY ESTIMATE</b>	An estimation of the market value of property including damages, if any, in advance of an appraisal.
<b>RIPARIAN RIGHTS</b>	The rights of an owner of water-front lands in the bed, banks, accretions, water, access, moorage and related items. (AASHTO)
<b>ROADSIDE CONTROL</b>	The public regulation of the roadside to improve highway safety, expedite the free flow of traffic, safeguard present and future highway investment, conserve abutting property values, or preserve the attractiveness of the landscape.(AASHTO)
<b>SETBACK LINE</b>	A line outside the right of way, established by public authority, on the highway side of which the erection of buildings or other permanent improvements is controlled. (AASHTO)
<b>SEVERANCE DAMAGES</b>	Loss in value of the remainder of a parcel resulting from an acquisition. (Sometimes called Indirect Damages.) (AASHTO)
<b>SIGHT DISTANCE TRIANGLE</b>	A vision triangle. An area in one quadrant of an intersection upon which an easement is acquired or fee title obtained to provide unobstructed sight over it.
<b>STATION</b>	A position on a line identified by its distance from the beginning of the line; (85+34.4 would be 85 Stations plus 34.4 feet or 8534.4 feet from the beginning of the line.)
<b>TITLE</b>	The evidence of a person's right to property or the right itself. (AASHTO)
<b>TITLE, ABSTRACT OF</b>	A document showing the condensed history of the title to property, containing portions of all conveyances or other pertinent instruments relating to the estate or interest in the property and all liens, charges, encumbrances and releases.(AASHTO)
<b>TITLE, CERTIFICATE OF</b>	A document based on a title search stating the title or interest in property is vested in a designated person and showing outstanding liens, charges or other encumbrances.

<b>TITLE, GUARANTEE</b>	A title, the validity of which is insured by an abstract, title or indemnity company. (Sometimes called Insured Title.) (AASHTO)
<b>TITLE, TORRENS</b>	A certificate of title issued by a public authority under a system wherein all deeds and documents affecting real property are registered. (AASHTO)
<b>TITLE OPINION</b>	An analysis and interpretation of a title search concerning present ownership, encumbrances, clouds on title and other infirmities. (AASHTO)
<b>TITLE SEARCH</b>	An investigation of public records and documents to ascertain the history and present status of title to property, including ownership, liens, charges, encumbrances, and other interests. (AASHTO)
<b>ZONING</b>	The division of an area into districts and the public regulation of the character and intensity of use of the land and improvements thereon. (AASHTO)
<b>ZONING, ROADSIDE</b>	The application of zoning for roadside control. (AASHTO)

**RIGHT OF WAY PLATS**

**20-18 EXAMPLES OF SPECIAL COUNTY/CITY/FEDERAL RULES**

**These rules are subject to change. Check with respective agencies for updates.**

**20-18.1 BURLEIGH COUNTY**



**COUNTY PLAT SUBMITTAL CHECKLISTS**

The following information is required on all plats submitted for review and approval by Burleigh County. The applicant checklist column for the appropriate plat type (preliminary or final) must be completed by the applicant and this form must be submitted in conjunction with the unified development application. If required items are not included on a plat submitted for approval, the application will be deemed incomplete.

<b>I. PRELIMINARY PLATS</b>	<b>Applicant Checklist</b>	<b>Staff Checklist</b>
<b>General Information</b>		
1. Proposed name of subdivision (use "subdivision" rather than "addition")		
2. Location of subdivision by section, township and range (to nearest quarter section)		
3. Name and address of registered land surveyor		
4. Name and address of property owner		
5. Scale of 1" = 100' or less, shown graphically (A different scale may be used only if it has previously been approved by the Director of Planning & Development)		
6. Date		
7. North point indication (arrow or compass rose)		
8. Boundary line of proposed subdivision indicated by a solid heavy line		
9. Total acreage within the subdivision and each individual lot		
10. A location map inset showing the boundary of the proposed subdivision and covering an area within a one mile radius of the subdivision		
<b>Existing</b>		
11. Existing access points along public right-of-way within or adjacent to the subdivision. All such adjacent access points within ¼ mile of the subdivision shall be shown or noted.		
12. Name, location, and width of all existing or previously platted streets, including the type and width of surfacing, within or adjacent to the subdivision		
13. Name, dimensions and location of any railroad right-of-way within or adjacent to the subdivision		
14. Name, dimensions and location of any utility easements within or adjacent to the subdivision		
15. Name, dimensions and location of any parks or public land within or adjacent to the subdivision		
16. Name, dimensions and location of any permanent buildings or structures within or adjacent to the subdivision		
17. Location of any corporate boundaries within or adjacent to the subdivision		
18. Location of section lines within or adjacent to the subdivision		
19. Existing water mains, storm sewers, sanitary sewers, culverts, bridges, poles, pipelines and other utility structures within or adjacent to the tract, indicating pipe sizes, grades, and exact locations		
20. Existing zoning of proposed subdivision and all adjacent tracts		
21. Boundary lines of adjacent tracts of subdivided and un-subdivided land, showing owners names		
22. Location of streams, water courses and marshy or swampy areas within or adjacent to the subdivision, including federally designated wetlands (must be labeled)		
23. Topographic contours with a minimum contour interval of 5 feet, with indication of datum used (NGVD29 or NAVD88, with NAVD88 preferred for all areas and required for areas with current floodplain information in that datum)		
24. 100-year floodplain and floodway elevations if any portion of the subdivision is within the floodplain, with indication of datum used (NAVD88 required for areas with current floodplain information in that datum)		
25. Boundaries of any existing underlying lot(s) being replatted, if any		
<b>Proposed</b>		
26. Layout, numbers and dimensions of lots		
27. Layout of proposed streets, alleys, crosswalks and easements, showing all widths and proposed street names		
28. Location and dimensions of non-access lines		
29. Identification of parcels of land intended to be dedicated or reserved for public uses, or set aside for use of property owners within the subdivision		

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## RIGHT OF WAY PLATS

II. FINAL PLATS	Applicant Checklist	City Staff Checklist
1. Minimum sheet size of 30" x 36". If more than one sheet is required, an index sheet showing the entire subdivision on one sheet must be submitted, all sheets must be numbered, of the same size, and include matchlines. A border of ½ inch shall be provided on the top, bottom, and right sides of the plat and a border of 2 inches shall be provided on the left side		
2. Name of the subdivision (use "subdivision" rather than "addition")		
3. Location of subdivision by section, township and range (to nearest quarter section)		
4. Name and address of registered land surveyor		
5. Name and address of property owner		
6. Scale of 1" = 100' or less, shown graphically		
7. Basis of bearings		
8. Date		
9. North point indication (arrow or compass rose)		
10. Boundary line of subdivision based on an accurate traverse, with angular and linear dimensions		
11. Legal description of property being platted, including any section line right-of-way not previously deeded for roadway purposes		
12. Accurate locations of all monuments, which shall be one (1) inch diameter iron pipes eighteen (18) inches in length. One monument shall be placed at each corner and at each change of direction in the boundary line of the subdivision; one monument shall be placed at each block corner; and one monument shall be placed at the point of curvature and point of tangency of each curve in a street line on both sides of the street		
13. True angles and distances to the nearest established street lines or official monuments, not less than 2 need to be accurately described on the plat. For purposes of this requirement, an official monument is an official government monument, such as a section corner or quarter section corner		
14. Ties to within 12 inches of a minimum of two accepted State Plane Coordinate monuments based on NAD 83 ND Zone 3302		
15. Exact location, width and name of all streets within and adjoining the subdivision and exact location of all alleys and crosswalks within the subdivision		
16. Accurate outlines and legal descriptions of any areas (not including streets, alleys or public utility easements) to be dedicated or reserved for public use, with the purposes indicated; and of any area to be reserved for common use of all property owners within the subdivision		
17. All easements for rights-of-way provided for public services and utilities		
18. All lot numbers and lot lines, with accurate dimensions in feet and hundredths		
19. Square footage or acreage of land within the subdivision, each individual lot and the total area in streets. If the subdivision crosses a quarter-section line, the acreage within each quarter section must also be noted.		
20. City, township, county or section lines accurately tied to the boundary lines of the subdivision by distance and angles;		
21. Radii, internal angles, points of curvature, tangent bearings and lengths of all arc		
22. Location and dimensions of non-access lines		
23. 100-year floodplain and floodway elevations and topographic contours with a minimum contour interval of five (5) feet for any portion of the subdivision within a designated floodplain, with indication of datum used (NAVD88 required for areas with current floodplain information in that datum )		
24. Present shoreline locations and water elevations shown and dated for any waterways or bodies of water within the subdivision (meander line)		
25. For subdivisions adjacent to the Missouri River, the 33,000 cfs flow elevation must be shown		
26. Certification by a registered surveyor that the plat represents a survey made by him/her, that monuments shown thereon exist as located and that all dimensional and geodetic details are correct		
27. Notarized certification by all owners of the land of adoption of the plat and dedication of sewers, water distribution lines, streets, public areas and other improvements		
28. Proper form for approval of the Planning Commission		
29. Proper form for acceptance of the plat and amendment of the master plan by the Board of County Commissioners		
28. Proper form for approval by the County Engineer		

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**RIGHT OF WAY PLATS**

**20-18.2 CITY OF BISMARCK**



***CITY/ETA SUBDIVISION PLAT SUBMITTAL CHECKLIST***

The following information is required on all subdivision plats submitted for review and approval. The applicant checklist column for the appropriate subdivision plat type (preliminary or final/minor) must be completed by the applicant and this form must be submitted in conjunction with the unified development application. If required items are not included on a plat submitted for approval, the application will be deemed incomplete.

<b>I. PRELIMINARY SUBDIVISION PLATS</b>	<b>Applicant Checklist</b>	<b>Staff Checklist</b>
<b>General Information</b>		
a. Proposed name of the subdivision plat (if in City use "addition", if in ETA use "subdivision").		
b. Location of subdivision plat by section, township and range (to the quarter section).		
c. Names and addresses of property owner(s) and registered land surveyor who prepared the plat.		
d. Scale of 1" = 100' or less, shown graphically (A different scale may be used only if it has previously been approved by the Director of Planning & Development).		
e. Date.		
f. North point indication (arrow or compass rose).		
g. Boundary line of proposed subdivision plat indicated by a solid heavy line.		
h. Total acreage within the subdivision plat.		
i. A location map inset showing the boundary of the proposed subdivision plat and covering an area within a one mile radius of the subdivision plat.		
<b>Existing</b>		
j. Existing & proposed access points along public right-of-way within or adjacent to the subdivision plat. For subdivision plats within the ETA, all access points within ¼ mile of the subdivision plat shall be shown.		
k. Name, location, and width of all existing or previously platted streets, including the type and width of surfacing, within or adjacent to the subdivision plat.		
l. Name, dimensions and location of any railroad right-of-way within or adjacent to the subdivision plat.		
m. Name, dimensions and location of any utility easements within or adjacent to the subdivision plat.		
n. Name, dimensions and location of any parks, public land or multi-use trails or crosswalks within or adjacent to the subdivision plat.		
o. Name, dimensions and location of any permanent buildings or structures within or adjacent to the subdivision plat.		
p. Location of the any corporate boundary if within or adjacent to the subdivision plat.		
q. Location and identification of any sections lines within or adjacent to the subdivision plat.		
r. Existing water mains, storm sewers, sanitary sewers, culverts, bridges, poles, pipelines and other utility structures within or adjacent to the tract, indicating pipe sizes, grades, and exact locations.		
s. Existing zoning of proposed subdivision plat and adjacent tracts of subdivided and un-subdivided land.		
t. Boundary lines of tracts of subdivided and un-subdivided land within or adjacent to the proposed subdivision plat (including any lots being replatted). Owners names are not needed for adjacent tracts within the corporate limits but must be shown for any adjacent tracts within the ETA.		
u. Topographic contours with a minimum contour interval of 2 feet, with indication of datum used (NGVD29 or NAVD88 with NAVD88 required for areas with floodplain information in that datum).		
v. 100-year floodplain and floodway elevations if any portion of the subdivision plat is within the floodplain, with indication of datum used (NAVD88 required for areas with current information in that datum).		
<b>Proposed</b>		
w. Layout, numbers and dimensions of lots and blocks.		
x. Layout of proposed streets, alleys, crosswalks and easements, showing all widths and proposed street names.		
y. Location and dimensions of proposed utility easements, including easements for storm water management facilities and proposed locations of culverts and retention/detention areas, if available.		
z. Location and dimensions of non-access lines.		
aa. Identification of parcels of land intended to be dedicated or reserved for public uses, or set aside for use of property owners within the subdivision plat.		
bb. Fencing note, if required, in accordance with Section 14-09-06 for property adjacent to I-94 or any open drainage facility.		
cc. Airport noise contours within or adjacent to the subdivision plat as established by the latest available data.		
dd. Location of streams, water courses and marshy or swampy areas within or adjacent to the subdivision plat, including federally designated wetlands (must be labeled).		

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**RIGHT OF WAY PLATS**

II. FINAL & MINOR SUBDIVISION PLATS	Applicant Checklist	City Staff Checklist
a. Name of the subdivision plat (if in City use "addition", if in ETA use "subdivision").		
b. Location of subdivision plat by section, township and range (to the quarter section).		
c. Names and addresses of property owner(s) and registered land surveyor.		
d. Scale of 1" = 100' or less, shown graphically.		
e. Date.		
f. North point indication (arrow or compass rose).		
g. Basis of bearings, as derived from State Plane Coordinates.		
h. Indication of both vertical datum and horizontal datum used for the plat.		
i. Boundary line of subdivision plat based on an accurate traverse, with angular and linear dimensions.		
j. Legal description of property being platted, including any section line right-of-way not previously decided for subdivision plats within the ETA.		
k. Accurate locations of all monuments. One monument shall be placed at each corner and at each change of direction in the boundary line of the subdivision plat. In addition, one monument shall be noted/ placed at each block corner; at each point of deflection in the interior lot lines; and at the point of curvature and point of tangency of each curve in a street line on both sides of the street. Whether monuments are to be noted or placed prior to recording the plat is based on the location of the subdivision plat.		
l. True angles and distances to the nearest official monuments. For subdivision plats adjacent to or within the current corporate limits, a tie to at least one official monument is required. For subdivision plats within the ETA, ties to two official monuments are required. For purposes of this requirement, an official monument is an official government monument, such as a section corner or quarter section corner.		
m. Ties to a minimum of two accepted State Plane Coordinate monuments based on NAD 83 horizontal datum (adjusted 86), units of measurement international feet, ND south zone 3302.		
n. Elevations referenced to a durable benchmark described on the plat within its location to the nearest hundredth of a foot, with indication of datum used (NAVD88 required for areas with current floodplain information in that datum).		
o. Exact location, width and name of all rights-of-way within and adjoining the subdivision plat, and the exact location of all alleys and multi-use trails within the subdivision plat.		
p. Accurate outlines and legal descriptions of any areas (not including streets, alleys or public utility easements) to be dedicated or reserved for public use, with the purposes indicated; and of any areas to be reserved by deed covenant for common use of all property owners within the subdivision plat.		
q. All easements for rights-of-way provided for public services and public utilities.		
r. All lot numbers and block numbers and lot lines, with accurate dimensions in feet and hundredths.		
s. Square footage or acreage of land within the subdivision plat, each individual lot, each sublot created by ghost platting, and the total area in streets. If the subdivision plat crosses a quarter-section line, the acreage within each quarter section must also be noted.		
t. Radii, deltas and lengths of all curves based on arc definitions.		
u. Location and dimensions of non-access lines and access points within a continuous non-access line.		
v. 100-year floodplain and floodway elevations and topographic contours with a minimum contour interval of 2 feet for any portion of the subdivision plat within a designated floodplain, with indication of datum used (NAVD88 required for areas with current floodplain information in that datum).		
w. For any waterways or bodies of water within or adjacent to the subdivision plat, the present shoreline locations (relative to the meander line).		
x. Water elevations must be shown and dated (meander line).		
y. For subdivision plats adjacent to the Missouri River, the 33,000 cfs flow elevation must be shown, which is the ordinary high water mark defined in the zoning ordinance for the purpose of measuring setbacks.		
z. Certification by the registered surveyor that the subdivision plat represents a survey made by him/her, or under the surveyor's direct supervision, and that the monuments shown thereon are accurate, all required monuments have been set, and that all dimensional and geodetic details are correct.		
aa. Notarized certification by all owner(s) of the land of adoption of the subdivision plat and dedication of sewers, water distribution lines, streets, public areas and other improvements. If there are multiple owners, the specific lot(s) owned by each must be specified.		
bb. Proper form for approval of the Planning & Zoning Commission.		
cc. Proper form for acceptance of the subdivision plat and amendment of the Master Street plan by the Board of City Commissioners. For subdivision plats within the ETA, proper form for acceptance of the right-of-way by the Burleigh County Board of Commissioners is also required.		
dd. Proper form for approval by the City Engineer.		
ee. Fencing note, if required for fencing along Interstate 94 or any open drainage facility.		
ff. All restrictive airport noise, clear zone and approach zone elevations within or adjacent to the subdivision plat.		
gg. All easements for stormwater management facilities shall be shown and dedicated.		
hh. Minimum sheet size of 30" x 36" required. If more than one sheet is required, an index sheet showing the entire subdivision plat on one sheet must be submitted, all sheets must be numbered, of the same size, and include matchlines. A border of 1/2 inch shall be provided on the top, bottom, and right sides of the subdivision plat and a border of 2 inches shall be provided on the left side.		

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### 20-18.3 MORTON COUNTY

#### MORTON COUNTY CHECKLIST FOR FINAL/SHORT-FORM PLAT

Final plats must be submitted with applications for short-form subdivision and long-form subdivisions, upon approval of the preliminary plat, in Morton County. The following checklist identifies all mandatory items to include on the final plat, from N.D.C.C. 40-50.1-01, N.D.C.C. 11-33.2-12.1, and Morton County regulations. The Applicant is responsible for reviewing and completing this checklist by marking the applicant column for each item. The Planning and Zoning Department will mark the staff column to verify criteria are met.

*This Checklist Must be Submitted with the Final Plat and, for Short-Form Subdivisions, with the Application*

Completed by: \_\_\_\_\_

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

Reviewed by: \_\_\_\_\_

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

#### FINAL PLAT CHECKLIST

**Applicant    Staff**

1. Sheet size of 24" x 36" or 30" x 36". If more than one sheet is required, an index sheet showing the entire subdivision on one sheet must be submitted, all sheets must be numbered, be the same size, and include matchlines. A border of 1/2 inch shall be provided on the top, bottom, and right sides of the plat and a border of 2 inches shall be provided on the left side	<input type="checkbox"/>	<input type="checkbox"/>
2. Name of subdivision (use "subdivision" rather than "addition").	<input type="checkbox"/>	<input type="checkbox"/>
3. Location of subdivision by section, township and range (to nearest quarter section).	<input type="checkbox"/>	<input type="checkbox"/>
4. Name and address of registered land surveyor.	<input type="checkbox"/>	<input type="checkbox"/>
5. Name and address of property owner.	<input type="checkbox"/>	<input type="checkbox"/>
6. Scale of 1" = 100' or less, shown graphically.	<input type="checkbox"/>	<input type="checkbox"/>
7. Basis of bearings (Any accepted surveying methodology may be followed).	<input type="checkbox"/>	<input type="checkbox"/>
8. Indication of both vertical and horizontal datum used.	<input type="checkbox"/>	<input type="checkbox"/>
9. Date of field survey and date of plat preparation (if different).	<input type="checkbox"/>	<input type="checkbox"/>
10. North point indication.	<input type="checkbox"/>	<input type="checkbox"/>
11. Boundary line of proposed subdivision based on accurate traverse, with angular and linear dimensions.	<input type="checkbox"/>	<input type="checkbox"/>
12. Legal description of property being platted, including any section line right-of-way not previously deeded for roadway purposes.	<input type="checkbox"/>	<input type="checkbox"/>
13. Building setback lines shall <u>not</u> be shown on the final plat.	<input type="checkbox"/>	<input type="checkbox"/>
14. Accurate locations of all monuments, indicating whether found or set. All set monuments shall comply with currently accepted surveying practice. One monument shall be placed at each corner and at each change of direction in the boundary line of the subdivision.	<input type="checkbox"/>	<input type="checkbox"/>

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FINAL PLAT CHECKLIST	Applicant	Staff
15. True angles and distances to the nearest established street lines or official monuments, not less than two (2) need to be accurately described on the plat. Examples of official monuments are section corners or quarter section corners.	<input type="checkbox"/>	<input type="checkbox"/>
16. Exact location, width and name of all streets within an adjoining the subdivision and exact location of all alleys and crosswalks within the subdivision.	<input type="checkbox"/>	<input type="checkbox"/>
17. Accurate outlines and legal descriptions of any areas (not including streets, alleys or public utility easements) to be dedicated or reserved for public use, with the purposed indicated; and of any area to be reserved for common use of all property owners within the subdivision plat.	<input type="checkbox"/>	<input type="checkbox"/>
18. All easements for rights-of-way provided for public services and public utilities, as well as easements for stormwater management facilities.	<input type="checkbox"/>	<input type="checkbox"/>
19. All lot numbers and lot lines, with accurate dimensions in feet and hundredths.	<input type="checkbox"/>	<input type="checkbox"/>
20. Square footage or acreage of land within the subdivision, each individual lot and total area in streets. If the subdivision crosses a quarter-section line, the acreage within each quarter section shall also be noted.	<input type="checkbox"/>	<input type="checkbox"/>
21. City, township, county or section lines accurately tied to the boundary lines of the subdivision by distance and angles.	<input type="checkbox"/>	<input type="checkbox"/>
22. Radii, internal angles, points of curvature, tangent bearings and lengths of all arc.	<input type="checkbox"/>	<input type="checkbox"/>
23. Location and dimensions of non-access lines.	<input type="checkbox"/>	<input type="checkbox"/>
24. Flood fringe and floodway elevations and topographic contours with a minimum contour interval of two (2) feet for any portion of the subdivision plat within a Special Flood Hazard Area. All elevations must be referenced to a durable benchmark using mean sea level datum.	<input type="checkbox"/>	<input type="checkbox"/>
25. Present shoreline locations and water elevations shown and dated for any waterways or bodies of water within the subdivision (meander line).	<input type="checkbox"/>	<input type="checkbox"/>
26. For subdivision plats adjacent to the Missouri River, the 33,000 cfs flow elevation must be shown, which is considered the ordinary high water mark.	<input type="checkbox"/>	<input type="checkbox"/>
27. Certification by the registered surveyor that the subdivision plat represents a survey made by him/her, or under the surveyor's direct supervision, and that the monuments shown thereon are accurate, all required monuments have been set, and that all dimensional and geodetic details are correct.	<input type="checkbox"/>	<input type="checkbox"/>
28. Notarized certification by all owner(s) of the land of adoption of the subdivision plat and dedication of streets, public areas and any other improvements depicted on the plat. If there are multiple owners, the specific lot(s) owned by each must be specified.	<input type="checkbox"/>	<input type="checkbox"/>
29. Proper form for approval by the Morton County Planning and Zoning Commission, with signature lines for the chair and secretary.	<input type="checkbox"/>	<input type="checkbox"/>
30. Proper form for approval by the Morton County Board of County Commissioners, with signature lines for the chair and auditor.	<input type="checkbox"/>	<input type="checkbox"/>
31. Proper form for county approval, with signature lines for the County Engineer and the Director of Planning and Zoning.	<input type="checkbox"/>	<input type="checkbox"/>

**RIGHT OF WAY PLATS****20-18.4 CITY OF MINOT****ARTICLE II****Definitions**Section 28-6. Scope of Definitions:

The definitions of words or phrases set forth in this chapter are supplemental to the definitions of the same or similar words or phrases set forth in Chapter 2 of this zoning ordinance, but to the extent that there may be an inconsistency between definitions in this chapter and definitions in Chapter 2, the definitions in this chapter govern for the purpose of the application and interpretation of this chapter.

Section 28-7. Auditor's/ Outlot Plat:

An auditor's outlot plat is the plat referred to in NDCC 57-02-39 & ND Administrative Code Chapter 28-02.1-13.

Section 28-8. Commission:

The Commission means the Planning Commission of the City of Minot.

Section 28-9. Conveyance:

A conveyance is the document, instrument, or act that transfers title to real estate from one person to another.

Section 28-10. Lot:

A lot is any tract of land, owned by one person or jointly owned by a combination of persons, the boundaries of which are established or depicted by any one or combination of the following methods:

- 1) Metes and bounds description;
- 2) A closed figure formed by a series of interconnecting lines drawn on a plat or by reference to a portion or fraction of a figure that is thus depicted; or
- 3) Reference to a U.S. Government section or U.S. Government lot or a fraction or portion thereof.

For purposes of this chapter, contiguous lots that are under the same ownership shall be considered jointly to be one lot.

Section 28-11. Outlot:

A lot or parcel of land lying outside the corporate limits of a town but subject to its municipal jurisdiction or control.

**RIGHT OF WAY PLATS**

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Section 28-12. Plat:

A plat is an instrument upon which is depicted a map, drawing or plan of a certain tract of land; drawn to scale. A plat shall be designed to facilitate the location of, reference to, and legal description of such tract, or boundary lines shown thereon, by indication therein of certain points of reference which are known to or which are described to coincide with established survey monuments.

Section 28-13. Subdivision:

A subdivision or subdividing is:

- 1) Any act that creates one or more lots which did not exist prior to the performance of such act, or which alters the boundaries of a lot that existed prior to the performance of such act. However, as long as the rule laid down in the prior sentence is observed, no subdivision occurs when there is a change of ownership with respect to a lot in its entirety; or
- 2) The establishment by recording in the office of the County Recorder of a conveyance or other instrument dedicating a street, highway, road, alley or other public right-of-way through a tract of land.

Section 28-134. Surveyor's Certificate:

A surveyor's certificate is a map, drawing or plan of one or more tracts of land, drawn to scale, upon which is depicted the boundaries of the tracts, and the size and location of structural improvements located upon such tracts, if any, and which is certified by a registered land surveyor as being accurate.

Section 28-145 -- 28-19. Reserved.

**RIGHT OF WAY PLATS****ARTICLE III****Subdivision Process****Division 1****Methods of Subdivision**Section 28-20. Lawful and Unlawful Subdivision:

- a) It shall be unlawful for any person who is the owner, or agent of an owner, of any land within the City of Minot or within two (2) miles of its corporate limits to subdivide the land except as specifically permitted hereafter.
- b) The following methods of subdivision are permitted:
  - 1) A conveyance of land by reference to a U.S. Government survey lot or U.S. Government section, or portion or fraction of either, if each tract of land so conveyed and each separate tract of land adjoining the conveyed tracts, which is still owned by the grantor or grantors following such conveyance, if any, equals or exceeds twenty (20) acres in area.
  - 2) A conveyance which incorporates by reference a plat, which plat has been approved as required in this chapter and which has been recorded in the office of the County Recorder, if the boundaries of the lot or lots so conveyed completely coincide with boundary lines depicted on the plat, and no violation of Chapter 4 is accomplished by such conveyance. As used in this paragraph (2) the word "plat" includes an auditor's outlot plat.
- c) The use of the permitted methods of subdivision set forth in Subsection (b) is restricted as follows:
  - 1) Any subdivision may be accomplished by use of a plat.
  - 2) An auditor's/outlot plat can serve as the predicate for a conveyance only when:
    - a. An unimproved rectangular lot is being divided into not more than two (2) new lots that share an irregular common boundary;
    - b. An unimproved non-rectangular lot is being divided into not more than two (2) new lots; or
    - c. A common boundary is being adjusted between two unimproved lots, one or both of which is non-rectangular.
    - d. To divide an existing unimproved rectangular lot into not more than two (2) new rectangular lots.
  - 3) For purposes of this subsection, a lot that has its dimensions altered, but which has its ownership unaffected by a conveyance, is treated as a new lot or a lot that did not exist prior to the conveyance.

Section 28-21 -- 28-22. Reserved.

### Subdivision Design Approval Process

#### Section 28-23. Approval and Acceptance of Subdivision Design:

- a) The person proposing to subdivide land subject to the jurisdiction of the City of is permitted and encouraged to consult with any one or more of the following: the Planning Director, members of his staff, the Commission and other appropriate city officials. Such consultation is not mandatory but is encouraged to avoid needless expenditure of time and money on a proposed subdivision design that will not meet the approval of the City without extensive revision. No representations or statements made by, or actions taken by, the Planning Director, members of his staff, the Commission, or other city officials in the course of such consultations shall be in any way binding upon the Commission prior to final approval of the subdivision design.
- b) The applicant for subdivision design approval shall submit as part of his application the subdivision design documents referred to in Subsection (c). The Commission shall study the subdivision design documents and the supplemental materials to see whether or not the design conforms to the minimum standards and requirements set forth in this zoning ordinance, and if not, whether any of the requirements should be waived or varied. The Commission shall not grant final approval or disapproval of the design until it has conducted a public hearing thereon. Notice of the public hearing specifying the time and date thereof, the place where held, and the legal description of the premises to be affected by the proposed subdivision design shall be published once in a newspaper of general circulation within the City of Minot, with the publication to be at least seven (7) days prior to the date of the hearing exclusive of the date of publication and the date of the hearing. The public hearing may be continued by the Commission as it deems necessary in order to solicit additional views and opinions concerning the proposed subdivision design. This will allow applicants to submit requirements imposed at the public hearing, or for any other purpose; provided that, however, final approval or disapproval shall be granted within ninety (90) days of the initial hearing on the design.
- c) The subdivision design documents or an application for an auditor's/outlot plat approval, if the original itself is not submitted, shall consist of a drawing to scale of the subdivision design, and the information required by Division 4 of this Article, except that the City Engineer may waive specific requirements of Division 4 on a case by case basis or by a general rule with respect to requests for an approval of an auditor's/outlot plat or surveyor's certificate. The subdivision design documents with respect to the application for approval of a subdivision by conveyance shall consist of a copy of the legal description sought to be used and a sketch map of the boundaries sought to be created or altered by the conveyance, drawn to scale, showing the streets, rights of way, and lots adjacent to the lots which will be created or which will have their boundaries affected by the proposed conveyance.
- d) The City Engineer is granted the authority to establish rules, regulations and procedures for the implementation of this chapter, such as, by way of example, and not by way of limitation, rules pertaining to the size and scale of sketch maps required under Subsection (c).
- e) In the event a proposed subdivision plat includes the proposed vacation of all or portion of a street or alley, notice shall be sent to all owners of property abutting the street or alley to be vacated. Such notice shall be mailed no later than the date of publication of the public hearing notice for the proposed plat.

Section 28-24. Considerations Governing Subdivision Design Approval, Conditions Imposed Thereon:

In approving or disapproving a proposed subdivision design, the Commission will make a determination as to whether or not the proposed design meets the technical requirements imposed by Sections 28-40 through 28-44, inclusive, of this chapter, and if not, whether any such requirements should be waived. Additionally, as suggested by North Dakota Century Code 40-48-09, the Commission shall bear in mind the purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the City of Minot and its environs. The development, in accordance with present and future needs, which will best promote the amenities of life, health, safety, morals, order, convenience, prosperity, and the general welfare, as well as efficiency and economy in the process of development, and which will encourage adequate provision for light and air, surface drainage and sewage disposal, distribution of population, good civic design and arrangement. This will also include wise and efficient expenditure of public funds, adequate provisions of public utilities and other public requirements, and the general embellishment of the area under its jurisdiction.

Section 28-25. Procedure Following Subdivision Design Approval:

- a) If the Commission approves the subdivision design it shall next be submitted to the City Council for final approval and for acceptance of all streets, alleys, public roadways, easements, parks, or other areas reserved or dedicated to the public.
- b) No later than six months (or twelve (12) months with the concurrence of the Commission) after a subdivision design has been approved by the City Council, the applicant for design approval may submit the final form of the instrument or document to the City Engineer which is to be recorded in the office of the County Recorder in order to accomplish the subdivision or to establish the necessary predicate for the later accomplishment of the subdivision. That is, the subdivider shall submit the final form of the original of the appropriate instrument of conveyance, auditor's outlot plat, or plat, and the necessary copies thereof required by ordinance or by way of regulation. The City Engineer shall indicate his approval on the original by signing his name under a suitable statement or legend that expresses approval. However, if the documents or instrument for which approval is sought is a plat, then before the City Engineer approves it he shall first satisfy himself that the technical requirements of Section 28-27 have been complied with and that monuments have been placed at all block corners, lot corners, angle points, points of curves in streets which are depicted in the plat, and at such intermediate points as may be required.
- c) The City Engineer may waive as a pre-requisite of final plat approval the monument requirements of Subsection (b) with respect to internal monuments only, if he requires a monument bond, in a form and with sureties satisfactory to him, conditioned upon the future placement of the monuments to which the bond relates in the manner and on or before the date which he shall establish in writing before the bond is accepted.

**RIGHT OF WAY PLATS****Forms and Contents of Plats**Section 28-27. Information Required on Recordable Plat:

- a) A recordable plat (other than a county auditor's/outlot plat) shall consist of one (1) original. The original shall be drawn on one or more sheets on Mylar (with a dull finish on both sides) inch from an accurate survey. Each sheet will be of the dimension of eighteen (18) inches by twenty-four (24) inches. In certain cases where the subdivided area is of unusual size or shape, the City Engineer may permit a variation of the scale of the plat.
- b) The recordable plat shall show the following:
  - 1) The name of the subdivision and the legal description of the property subdivided and points of the compass, the scale of plat, the date, and the names of the owner or owners and the sub divider or the proponent of the plat, and the surveyor's certification required by North Dakota Century Code 40-50-04.
  - 2) The boundary lines of the area being subdivided with accurate dimensions and bearings;
  - 3) The lines of all proposed and existing streets and alleys with their widths and names;
  - 4) An accurate outline of any property that is offered for dedication to public use and all lot lines with an identification system for all lots and blocks;
  - 5) An indication of (i) building lines (if such lines by reason of restrictive covenants are more restrictive than those required under the City of Minot Zoning Ordinance), (ii) easements for any right-of-way provided for public use, services or utilities, with figures showing their dimensions and an indication of the types of uses permitted within the easement, and (iii) the location and dimension of existing buildings, if any;
  - 6) Radii, arcs, chords, points of tangency, central angles for all curvilinear streets, and radii for all rounded corners;
  - 7) All dimensions, both linear and angular, necessary for locating boundaries of subdivisions, lots, streets, alleys, and of any other areas for public or private use, with linear dimensions expressed in feet and decimals of a foot;
  - 8) The location of all survey monuments with their descriptions;
  - 9) The proper acknowledgement of the owners and their written consent to the plat and restrictions, including dedication to the public use of all public streets, alleys, parks or other open spaces shown thereon and the granting of easements indicated thereon; and
  - 10) A certificate of approval for endorsement by the City Engineer, which when signed shall be conclusive proof of prior approval of the plat by the Commission and City Council.
- c) In his discretion, the City Engineer shall have the authority to waive or vary any of the above indicated requirements except (b) (10) which in his judgment are not required because of the nature of the plat or plan of the development.

Section 28-28. Auditor's/Outlot Plat Contents:

The City Engineer and Ward County Recorder shall by regulation establish the form of and the information required on a recordable auditor's/outlot plat.

**RIGHT OF WAY PLATS**Section 28-29. Additional Requirements for All Subdivision and Outlot Plats:

- a) All plats shall be tied to within twelve (12) inches of a minimum of two (2) accepted State Plane Coordinate monuments based on NAD 83 ND Zone 3301.
- b) An electronic copy shall be submitted with the hard copies of all plats to be supplied to the City Engineer.

(Ord. 3821;Ord. 3844)

**Supplemental Information Required**Section 28-30. Sketch Map, Covenants, Title Memorandum Required:

- a) As part of the application for approval of a subdivision design the applicant who seeks plat approval shall submit:
  - 1) A sketch map, drawing or plan drawn to scale and showing:
    - a. The location of the present property lines, streets, buildings, water courses, tree masses, and other existing features within the premises to be subdivided and similar information regarding existing conditions of land immediately adjacent thereto;
    - b. The names and adjoining boundaries of all adjoining subdivisions;
    - c. Existing sanitary and storm sewers, water mains, culverts, and other underground structures within the premises to be subdivided or immediately adjacent thereto;
    - d. Contours with intervals sufficient to determine the character and topography of the premises to be subdivided; but in no case shall the intervals be more than five (5) feet;
    - e. The manner in which any proposed streets or public rights-of-way within the premises to be subdivided will interconnect with the nearest arterial or minor arterial street; and
    - f. Such other information as the City Engineer may require;
  - 2) Copies of private restrictions such as protective covenants or restrictive covenants applicable to the premises sought to be subdivided, if any; and
  - 3) A title memorandum or memo of ownership from a certified abstractor showing the apparent record title ownership and any outstanding unsatisfied security interests such as mortgages or contracts for deed in respect to the premises sought to be subdivided, when the applicant is not the owner of the premises on the tax rolls.
- b) The applicant for approval of an auditor's outlot plat or surveyor's certificate shall submit so much of the information described in subsection (a) as the City Engineer requires pursuant to 28-23(c).

Section 28-31. Sewage Disposal Plans Required:

If the premises to be subdivided will not immediately have access to the municipal sewage system, no final subdivision design can be approved by the Commission unless it is accompanied by a report from the inspector in charge of health and sanitation, which report will indicate an

### 20-18.5 NATIONAL FOREST SERVICE LANDS, PLAT STANDARDS, CHECK LIST.

#### F.A.S. PLAT STANDARDS

Plat Standards. (Department of Transportation Easements) Road right-of-way plats for Department of Transportation easements granted by the Federal Highway Administration to states across National Forest System lands shall contain the following information:

- |     |    |   |
|-----|----|---|
| Yes | No | 1. Scale (bar scale is preferred because scale of original will not change).  |
| Yes | No | 2. North Arrow, meridian, township, range, and section(s).  |
| Yes | No | 3. Basis of Bearings ( solar, reference line, geodetic, magnetic needle, etc.)  |
| Yes | No | *4. Centerline geometry (curve elements and bearing and length of tangent) with specified width from centerline to easement boundary at each change of width and stationing of change point or, as an alternative, the bearings and distances along each easement boundary. |
| Yes | No | *5. Surveyed, calculated or scaled tie to centerline where the easement crosses each National Forest property boundary. In solid National Forest ownership ties to the public land net should normally be not less than one corner for every three sections crossed.        |
| Yes | No | 6. Legal description of each parcel of National Forest System land crossed. (40 acre aliquot part of lot as minimum)  |
| Yes | No | 7. Acreage of easement on National Forest System land.  |
| Yes | No | 8. Easement area identified by shading, crosshatching, or other appropriate means.  |
| Yes | No | 9. Statement on each National Forest property line showing how it was placed on the plat (by survey, projection of GLO record, other surveys of record, fence lines, etc.)  |
| Yes | No | 10. Legend explaining any symbols used.   |
| Yes | No | 11. Approval for right-of-way purposes by responsible officer(s) with title(s) and date(s) of signature.  |
| Yes | No | 12. Master sheet showing relation of each sheet to others (when applicable).  |
| Yes | No | 13. Sheet number of each sheet and total number of sheets; e.g. 1 of 3, etc.  |
| Yes | No | 14. Title block showing project name and number.  |
| Yes | No | 15. Vicinity map showing project location in relation to nearby cities, towns or prominent natural features (when applicable).  |

\* Denotes items which may not be available in older surveys for existing highways. In these cases the easement application should discuss the difficulties in obtaining the data, explain any alternative methods used, and request an exception to those requirements.

Approved by \_\_\_\_\_ Date \_\_\_\_\_

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**20-19 MISCELLANEOUS****PUBLIC LAND SURVEY SYSTEM – CASE LAW****20-19.1 ORIGINAL SURVEYS: EFFECTS OF ORIGINAL SURVEYS**

Churchill v. Beal, 99 Cal. App. 482, 278 P. 894 (1929)

We come now to the question urged by the appellants, that the resurvey...., being a government survey, is controlling. The law, however, is well settled that, when lands are sold by the general government with regard to a survey that has already been made, no resurvey can be made so as to affect, limit, or change the boundaries of the lands which have theretofore been conveyed.

If the original survey ... fixed the ... boundary of the lands granted to the plaintiff ..., whether the line as originally located was correct becomes immaterial. It is the correct line [because] it fixes on the ground the lands covered by the patents, the ownership of which has passed to the plaintiff.

O.R. Williams, 60 I.D. 301 (1949)

The Federal Government may not affect the property rights acquired under an official survey by means of a second survey.

United States v. Doyle, 468 F.2d 633 (1972)

The original survey as it was actually run on ground controls, even if boundary was incorrect as established or if it set awry the shapes of sections and subdivisions.

Precisely accurate resurvey cannot defeat ownership right flowing from original boundaries.

**20-19.2 RESURVEYS: THE ROLE OF THE SURVEYOR**

Yolo v. Nolan, 144 Cal. 445, 77 P. 1006 (1904)

It is not the business of the surveyor to speculate as to whether one government subdivision is short, and the other long, in acres. He is not authorized to correct what the government has done.

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**20-19.3 RESURVEYS: DEPENDENT RESURVEYS**

12 Am Jur 2d, Boundaries, 61 at 599.

The objective of a resurvey is to furnish proof of the location of the lost lines or monuments, not to dispute the correctness of or to control the original survey. The original survey in all cases must, whenever possible, be retraced, since it cannot be disregarded or needlessly altered after the property rights have been acquired in reliance upon it.

Orion L. Fenton, 78 I.D. 1 (1971)

In making a dependent resurvey, the government undertakes to retrace and reestablish the lines of the original survey in their true original position according to the best available evidence of the positions of the original corners, and the lines of the dependent resurvey in themselves represent the best possible identification of the true legal boundaries of lands patented on the basis of the original survey

In making the retracement or dependent resurvey the corners established should be located, if possible, by considering all the relevant evidence and not simply one or two factors.

Domenico A. Tussio, 37 IBLA 132 (1978)

In conformance with the statute, the courts have uniformly held the dependent resurveys of public land must follow the original survey and cannot, in the absence of fraud, change the corners and boundaries as established by the original survey to the prejudice of bona fide property rights acquired on good faith in reliance of the integrity of the original survey.

A dependent resurvey by BLM which does not follow the Manual of Surveying Instructions (1973) constitutes gross error and must be canceled

Alice L. Allesen, 77 IBLA 106 (1983)

The results of a dependent resurvey conducted by the Cadastral Survey will not alter or affect any boundaries between private tracts of land. In disputes between private owners, the location of corners reestablished, by a dependent survey does not make the new survey conclusive against a prior purchaser so as to present his assertion of the title he has acquired as against one claiming under the new survey

General Comment:

It should be noted that “reestablished” corners in a dependent resurvey are not absolutely conclusive, but may be rejected in court upon a showing of better evidence of the location

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of the actual original corner. U.S. v. Hudspeth, 384 F.2d 683, n.7 (1967); See Ben Realty Co. v. Gothberg, 56 Wyo. 294, 109 P.2d 455, 459-460 (1941); Ward v. Rodriguez, 43 N.M. 191, 88 P.2d 277 (1939).

**20-19.4 PLATS, PATENTS, & FIELD NOTES: PLATS & PATENTS**

Whiting v. Gardner, 80 Cal. 80, 22 P. 71 (1889)

The issue before the court in this case was one involving a discrepancy between field-notes and plat. The evidence submitted by the appellant was not offered to show that the line in question was improperly located but that the field notes showed it at one place and the plat at another.

*The question here is whether the field notes of a survey upon which a map is founded can be used, as evidence to show that the map is incorrect. The descriptions in the deeds refer, not only to the map, but to the survey, which make both parts of the deeds. In the absence of evidence to the contrary, it will be presumed that the map correctly represents the survey, and the latter need not be looked into; but if it be shown that a discrepancy exist between the map and the survey upon which it is based, that latter must prevail.*

**NOTE:**

In other words, the survey, as run on the ground, is the best evidence of what was to be conveyed, the plat second best, and the field notes give way to both.

Beaty v. Robertson, 30 NE 706 (1892)

The plat controls over field notes, where there is a variance, since the plat represents the lines and corners as fixed by the surveyor general, and by which the land was sold.

**20-19.5 PLATS, PATENTS, & FIELD NOTES: FIELD NOTES**

State v. Ball, 133 N.W. 412 (1911)

If the monuments have been destroyed, and their original location cannot be established by any other proof, recourse may be had to the field notes of the original survey

Ritter v. Morton, 513 F.2d 942 (1975)

In determining boundaries in any land patent case, special weight must be given to the precise description of the land contained in the surveyor's field notes and the official plat.

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**20-19.6 ADVERSE POSSESSION: ALL**

Sweeten v. United States, 684 F.2d 679 (1982)

No title to public lands can be obtained by adverse possession, laches or acquiescence and thus fence line did not provide basis for action against United States on grounds of adverse possession and boundary by acquiescence between private and nation forest land.

The Supreme Court has ruled that no title to public lands can be obtained by adverse possession, laches, or acquiescence. United States v. California, 332 US 19, 39-40, 67 S.ct. 1658, 1668, 91 L.Ed. 1889 (1947)

United States v. Eldredge, 33 F.Supp. 337 (1940)

Title cannot be secured against the Government by adverse possession

Loyla C. Waskul, 102 IBLA 241 (1988)

It is beyond dispute that the mere use or occupancy of Federal land without color of right gives no prescriptive rights against the United States. See United States v. Osterland, 505 F.Supp. 165 (D. Colo. 1981). Absent and individual's ability to show that he or she has complied with the statutory requirements of the Color of Title Act, unauthorized use and occupancy of land owned by the United States, even if in absolute good faith, affords no rights to that land.

**20-19.7 ACCURACY OF ORIGINAL SURVEYS: ALL**

Weaver v. Howatt, 171 Cal. 302, 152 P. 925 (1915)

In this cast the Supreme Court of California was ruling on a survey performed by Deputy Surveyor Forman. The question before the State's High Court was the lower court's ruling that the subject corner should be reestablished from incidental items of topography noted in Forman's field notes. The court did not dispute the appellant's contention that Forman's survey was in fact erroneous or that the procedure in question would result in distorted section lines. The court explained, at 928:

*Even if the surveyor had merely walked over the line and measured the distances by counting his steps, or by guess, the government accepted his report as satisfactory evidence of the location of the subdivisions, and enough now remains [as to be controlling].*

*It may well be, as appellants say, that this location of the corner will set awry the shapes of the sections and subdivisions affected thereby. This is, unfortunately, a not infrequent result of inaccurate, careless, or fraudulent surveys. But the*

**RIGHT OF WAY PLATS**

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*government owned the land, caused the survey to be made, and sold the land by reference thereto. Purchasers must abide by the result, regardless of the lack of rectangular form or regular shape of the subdivisions so made.*

**NOTE:**

This case was cited with much approval in Spiers v. Spiers, 176 Cal. 557, 169 P. 73 (1917)

Galt v. Willingham, 300 F. 761 (1924)

Granted that the rules governing surveyors of government land are required to run range lines due north and south, yet if the surveyor does not do this, as I understand the law, when it comes to reestablishing the lines, they are to be run as the surveyor ran them at the time of making his survey, and not what he ought to have done. And so strict is this rule that not even the government can change the lines to the detriment of private interests.

Byrne v. Mckeachie, 34 S.D. 589, 149 N.W. 552, 553

No matter how erroneously the work of the government surveyor may have done, and no matter how far out of its proper location a government corner may have been established, if such location can be fixed it must control.

**20-19.8 ORIGINAL CORNER CONTROL: ALL**

Elmer A. Swan, 77 IBLA 99 (1983), Elmer Swan v. BLM (Upon Hearing), IBLA 82-1212 (1985)

The first principle of law in the field of surveys and resurveys is that the original survey controls the boundaries of land patented under it. The original corners and lines may not be changed even though they are incorrect. United States v. Doyle, 468 F.2d 633 (10th Cir. 1972); Manual, Sec. 6-15

Second, a dependent resurvey is defined as “a retracement and reestablishment of the lines of the original survey in their true original positions according to the best available evidence of the positions of the original corners” (Manual of Instructions, 6-4). Thus, a dependent resurvey produces nothing new. The lines and corners established by the resurvey are demmed, in law and in fact, to be identical to the lines and corners of the original survey. (Mr. and Mrs. John Koopmans, 70 IBLA 75 (1983); Manual of Instructions, 6-4).

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Myrick v. Peet, 180 P. 574 (1919)

Where there is a conflict between monument and the courses and distances, the latter must yield to the former.

Monuments are facts; the field notes and plats indicating the courses, distances, and quantities are but descriptions which serve to assist in ascertaining those facts.

Marks on the ground constitute the survey; courses and distances are only evidence of the survey. 9 Corpus Juris, §210; Hunt v. Barker, 27 Cal. App. 776, 151 Pac. 165; Woods v. Johnson, 264 Mo. 289, 174 S.W. 375

With ocular and tangible proof of authentic boundaries at hand, it would be illogical to resort to courses and distances.

The question is not whether the monuments were correctly placed, but whether they were placed by authority. It was held by the Supreme Court of Washington (Green v. Squire, 9 Wash. 359, 37 Pac. 545), in a somewhat similar case, that the true corner of a government quarter section of land is where the United States government surveyor established it, notwithstanding its location may not be such as is designated in the plat or field notes.

Lindsey v. Haws, 67 US [2 Black] 554, 560 (1862)

We are not prepared to admit, that if the second survey be the correct and proper subdivision of that section into quarters and fraction of quarters, and that by this survey, (though otherwise by the former) the house of Lindsey was found not to be in the fraction pre-empted by him, the Commissioner could, for this reason alone, set aside, in this summary manner, the sale of the land made by the Government to Lindsey. It is to be remembered that the original survey of Bennett, was the survey of the Government; that it was made in 1833; that the maps, plats, certificates, and field notes were all filed in the proper office; the survey approved, and that for eleven years, the Government had acted upon and recognized it as valid and correct, and above all had sold the land to Lindsey by this its own survey, received the purchase money, and given him a patent certificate, five years before any suggestion was made of this error. – We are of the opinion, under these circumstances, that so far as the location of the lines of that quarter section, affect the question of the precise locality of Lindsey's residence, as bearing on his right to enter that fraction as a pre-emption, the Government was bound by the original survey of Bennett.

**NOTE:**

The government is bound by the original survey the same as is any private citizen. It cannot correct its own errors once private rights are established on the basis of those mistakes.

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**20-19.9 SUBDIVISION OF SECTIONS: ALL**

Vaught v. McClymond, 155 P.2d 612 (1945)

In observance of the Act of 1805 the courts have consistently held that in legal contemplation a survey of the exterior boundaries of a section is sufficient to identify the aliquot parts thereof. Though there are numerous decisions expressing this basic tenet of boundary construction, the McClymond court perhaps most succinctly expressed the principle, saying, at 616:

The original corners and lines of section 26 created and established by the government constitute the true and only boundaries of the designated quarter section.

The quarter lines are not run upon the ground, but they exist, by law, the same as the section lines. Keyse v. Sutherland, 59 Mich 455, 26 N.W. 865, 867.

It should not go unnoticed that the court in this case, by recognizing that the subdivision lines of the section there in question had not been “run upon [the] ground”, fully understood that the lines they were referring to had not been monumented. Continuing its discussion, the McClymond court went on to explain the procedure for establishing the legal center of a section, saying at 618 :

*To find the common corner of quarter sections or the legal center of a section of land, straight lines must be run from the quarter section corners on the boundary of the section to the opposite quarter corners, the point of intersection constituting the legal center....*

Upton v. Reed, 256 Ala. 593 (1952)

In this case the Supreme Court of Alabama not only similarly interpreted the meaning of the Act of 1805, but also pointed out that not even agreements between private parties could abrogate the legal necessity for proper subdivision. The case involved a fenced property boundary which was not established in accord with the principles enunciated in the Act of 1805, and was, therefore, held not to be the true boundary of the quarter section. The court saying that:

*No act of parties can relocate section lines as established by the government survey, the same being true of interior subdivision lines of a section. While not surveyed and marked in the government survey, they are nonetheless certain in legal contemplation, because they are fixed and determinable by a subdivision of the section using the four corners of the section shown in the official field notes.*

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Luckey v. Huseman, 56 LD 31 (1936)

In this color of title case in which the Department ruled that fences placed at variance with the true subdivision of section lines did not provide grounds for departing from established procedures for surveying the public lands in order to conform to an irregular fence line. The Secretary saying:

*The mere existence of a fence between adjoining owners is not of itself sufficient to establish the line between them. 9 C.J. 246. There was no one to acquiesce upon the part of the Government, in the location of the fence... It is not at all unusual for fences to be placed somewhat at variance with the true lines, but it cannot be admitted that such careless fencing affords ground for departure from the rectangular system of surveys of public lands in order to conform to such irregular fence lines.*

Stanley A. Phillips, 31 IBLA 302 (1977)

In this case the Interior Board of Land Appeals rejected the Appellant's insistence that the Bureau recognize the position of a locally established CW 1/16 section corner which had not been established in accordance with the Manual. In quoting from the Bureau's dismissal letter, the Board held:

*The Original survey... did not include the subdivision of [the section], therefore no corner point had ever been established at the CW 1/16 section corners of [the section]. Apparently a local corner point was established in 1913 at a location purported to be the CW 1/16 section corner. An examination of the location of this local corner point reveals that it was not established in accordance with procedures set out in [the Manual of Surveying Instructions].... The BLM is reluctant to honor corners which affect public land boundaries that were obviously not established in accordance with the Manual procedures.*

WO Instruction Memorandum No. 88-287

Corners of minor subdivision (1/16 and less) will be proportioned between existing marks of the original survey, including line trees, whenever such marks are found.

### **20-19.10 PROPORTIONATE MEASUREMENT: AUTHORITY OF PROPORTION**

Verdi Development Co. v. Dono-Han Mining Co., 296 P.2d 429, 433 (1956)

Resort to the proportional methods of locating lost corners must not be resorted to unless all other prescribed methods fail. Weaver v. Howatt, 161 Cal. 77, 84, 118 P. 519; County of Yolo v. Nolan, 144 Cal. 445, 448, 77 P. 1006

**RIGHT OF WAY PLATS**

---

Weaver v. Howatt, 161 Cal. 77, 118 P. 519 (1911)

In this case the Supreme Court of California was ruling on a survey performed by Deputy Surveyor Forman. The question before the State's High Court was the lower court's ruling that the subject corner should be reestablished from incidental items of topography noted in Forman's field notes; rather than by the proportionate method. The court did not dispute the appellant's contention that Forman's survey was in fact erroneous or that the procedure in question (i.e., reestablishment from calls of topography) would result in distorted section lines. The court explained, at 522:

*The proportional method is to be used **only** when no other reasonable method is possible, and it must be so used that it does not contradict or conflict with the official data that are not impeached, and which, if not impeached, confine the actual position within certain limits. The application of the proportional method must, in that case, be also confined to the same limits.*

Jean Eli, 78 IBLA 374 (1984)

The rules for the restoration of lost corners should not be applied until all original and collateral evidence has been developed

**20-19.11 PROPORTIONATE MEASUREMENT: ONLY AS A LAST RESORT**

California v. Thompson, Cal. Rptr. (1971)

The proportionate method of determining the location of a disputed corner may be used only as a last resort when an original corner is "lost" and cannot be relocated on the ground. If monuments are obliterated, the corner must be located by reference to the natural objects and topography, if possible.

Incidental calls to natural objects may be resorted to where the locative calls have disappeared.

**20-19.12 ACCEPTANCE OF LOCAL CORNERS: ALL**

Rubicon Properties, Inc. et al., A-30748 (May 6, 1968)

In making a retracement or dependent resurvey of public lands, the corners established by the original survey should be located, if possible, by considering all the relevant evidence and not simply one or two factors.

Stanley A. Phillips, 31 IBLA 342 (1977)

This case involved, among other corners, a locally established center west 1/16 section corner which had been in place for 64 years. The Board ruled that the particular corner had not been located in accordance with the law and could not, therefore, affect the boundaries of the public land. The Board held, at page 347:

*The BLM is reluctant to honor corners which affect public land boundaries that were obviously not established with the Manual procedures.*

### **20-19.13 HIERARCHY OF BOUNDARY EVIDENCE: ALL**

Galt v. Willingham, 11 F.2d 757 (1926)

Courses and distances yield to natural monuments and boundaries. This rule is so strict that even the government itself cannot question it.

United States v. Doyle, 468 F.2d 633 (10th Cir. 1972)

Means to be used [to locate lost monuments or corners] include collateral evidence such as boundary fences that have been maintained, and they should not be disregarded by the surveyor. Wilson v. Stork, 171 Wis. 561, 177 N.W. 878, 880. Artificial monuments such as roads, poles, fences and improvements may not be ignored. Buckley v. Laird, 493 P.2d 1070, 1073 (Mont.); Dittrich v. Ubl, 216 Minn. 396, 13 N.W.2d 384, 390. And the surveyor should consider information from owners and former residents of property in the area. See Buckley v. Laird, supra, 493 P.2d at 1073-1076. "It is so much more satisfactory to so locate the corner than regard it as 'lost' and locate by 'proportionate' measurement." Clark, *Surveying and Boundaries* § 335, at 365.

United States v. Redondo Development Co., 254 F. 656 (1918)

General rule of precedence of proofs for determining disputed boundaries is: first, natural monuments; second, artificial marks; third, courses and distances; and last, recitals of quantity; but the rule is not imperative, and is adaptable to circumstances.

### **20-19.14 OVERLAP: ALL**

Waldron v. Branson, 98 US 118 (1878)

As between two claimants of public land, it has long been an established rule of law that the first in time is the first in right. Shepley v. Cowen, 91 US 330, 23 L.Ed. 424; Writh v. Branson, 98 US 118, 25 L.Ed. 86; McCreery v. Haskell, 119 US 327, 7 Sup. Ct. 176, 30 L.Ed. 408.

## **RIGHT OF WAY PLATS**

### **20-20 OUTLINE DOCUMENT FOR RIGHT OF WAY PLAT CORRECTION CERTIFICATION**

#### **20-20.1 SURVEYOR'S CERTIFICATE**

#### **SURVEYOR'S CERTIFICATE**

Notice of correction on a recorded plat

State of North Dakota)  
County of (County name))

REFERENCE: (Project)

I, (Name) a Professional Land Surveyor in the state of North Dakota platted the property known and described as \_\_\_\_\_, in \_\_\_\_\_ County, North Dakota, recorded on the \_\_ day of \_\_\_\_\_, \_\_\_\_\_ with the \_\_\_\_\_ County Recorder as Document Number \_\_\_\_\_.

There is an error in the (description, plat, deed) of the property.

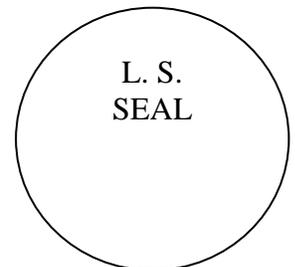
**THE (DESCRIPTION, PLAT) ON THE (DOCUMENT) READS AS FOLLOWS:**

**THE (DESCRIPTION, PLAT) ON THE (DOCUMENT) SHOULD HAVE READ AS FOLLOWS:**

To the best of my knowledge, all other items pertaining to the above mentioned (document) are true and correct. And that I hold a valid Land Surveyor Registration in the State of North Dakota.

Dated this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
(NAME, PLS #)



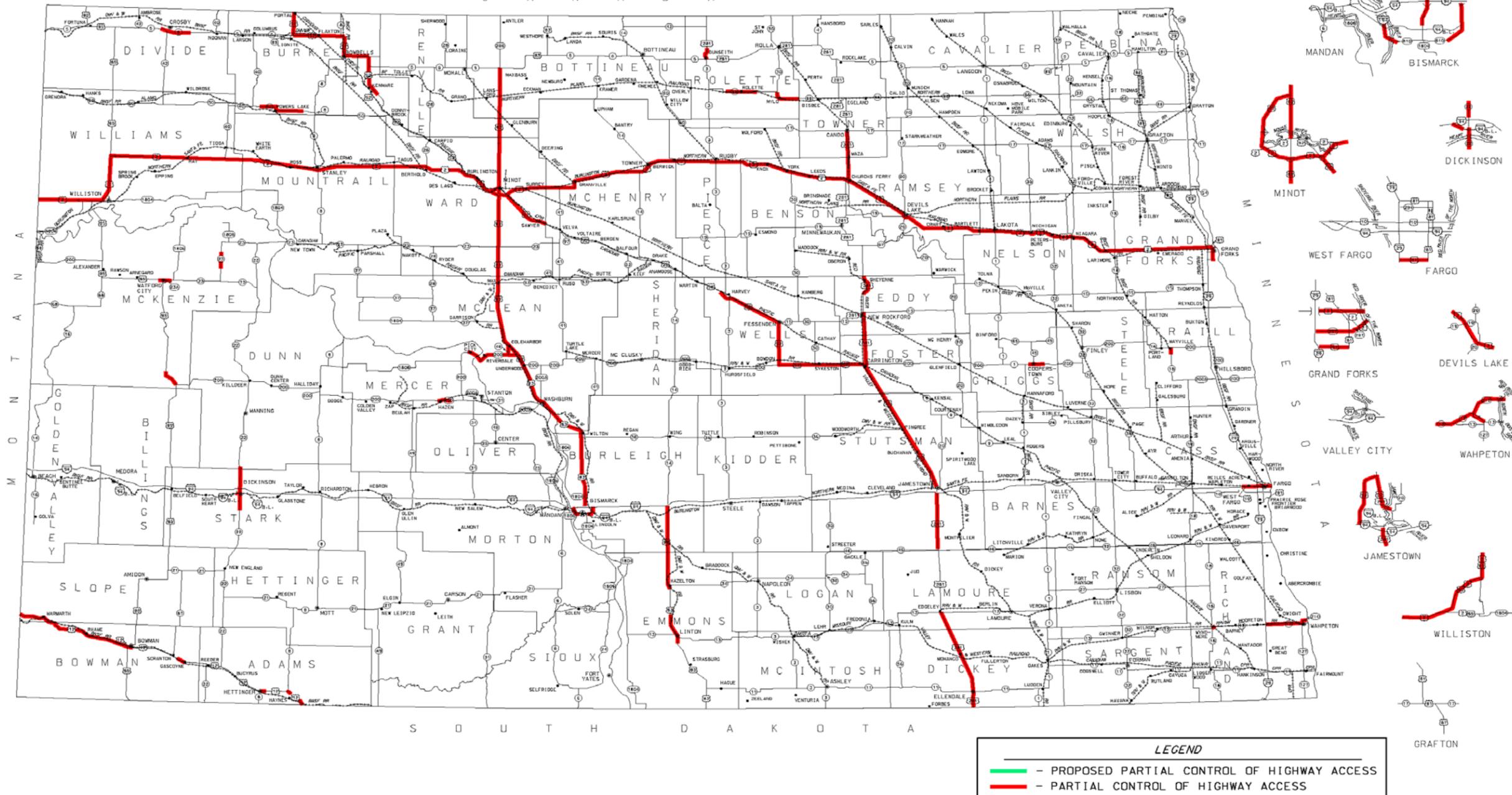
NDCC 40-50.1-15; NDCC 40-50.1-09; NDCC 43-19.1-19  
ND ADMINISTRATIVE CODE 28-02.1-08-02(3)

Recorder's Recording data below  
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RIGHT OF WAY PLATS

20-21 STATE MAP SHOWING ACCESS CONTROL HIGHWAYS

2012 - Highway Access Control Map



## RIGHT OF WAY PLATS

### 20-21.1 OUTLINE DOCUMENT FOR RIGHT OF WAY PLAT ACCESS POINT CERTIFICATION

#### SURVEYOR'S CERTIFICATE

Notice of adding access points to a recorded plat

State of North Dakota )

County of )

#### REFERENCE:

I, (Name), Professional Land Surveyor in the state of North Dakota add an access point to an existing right of way plat described as follows:

(name of PLS on plat), Registered Land Surveyor in the state of North Dakota, sealed and signed, the property known and described as \_\_\_\_\_, Morton County, North Dakota, recorded (date recorded) with the \_\_\_\_\_ County Recorder as Document # \_\_\_\_\_.

#### THE LOCATION OF ADDED ACCESS POINT FOLLOWS:

ND Century Code 40-50.1-09

Access point added at Station 26+30.82 Left side on August 14, 2006.

To the best of my knowledge, all other items pertaining to the above mentioned plat are true and correct. And that I hold a valid Land Surveyor Registration in the state of North Dakota.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
(Name), PLS

NDCC 40-50.1-15; NDCC 40-50.1-09; NDCC 43-19.1-19  
ND ADMINISTRATIVE CODE 28-02.1-08-02(3)



Recorder's recording data below



**RIGHT OF WAY PLAT****20-21.3 SAMPLE DESCRIPTION WITH ACCESS CONTROL**

## Parcel Number 12-1

A Portion of the NE¼ of Section 26, Township 156 N, Range 86 W, of the 5th Principal Meridian, County of Ward, State of North Dakota, described as follows and as shown on plat 12 of 22:

A strip of land 84 feet wide, the northerly and southerly lines of which are parallel. The northerly line of said strip being 58 feet Southerly of and parallel to the following described survey centerline as surveyed.

Commencing at the N¼ corner of section 26, thence southerly along the ¼ line of section 26, S 00 deg. 44 min. 32 sec. W a distance of 79.81 feet, to a point on the survey centerline of US 2, which is also the beginning of the 84 foot strip; thence S 88 deg. 53 min. 06 Sec. E a distance of 2536.67 feet to the beginning of a tangent curve, concave to the (left)northerly, having a radius of 22918.31 feet; thence easterly along said curve 74.98 feet through a central angle of 00 deg. 11 min. 15 sec. to the end of the 84 foot strip.

Said strip is shown on the plat as parcel 12-1 and contains 5.04 acres more or less.

END OF DESCRIPTION

Also including all right of access, being the right of ingress to and egress from the NE¼ of section 26, Township 156 N, Range 86 W, of The 5<sup>th</sup> Principal Meridian, County of Ward, to and from the highway right of way. Except that the abutting owner shall reserve the right of Access 30 feet wide, centered at station 6602+77.33 & 6629+22.15 on the survey centerline of US 2 and as shown on plat 12 of 22.

The legal description was prepared by WAYNE CHRISTENSEN, North Dakota Department of Transportation, 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700.

Below is an example of an access control description when not accompanying another parcel and is a stand along Access Control Point.

## Access Control 17-3

All right of access, being the right of ingress to and egress from the NE ¼ of section 32, Township 133 N, Range 105 W, of the 5th Principal Meridian, County of Slope, to and from the highway right of way. Except that the abutting owner shall reserve the right of access 30 feet wide, centered at station 424+50 on the survey centerline of US 12 and as shown on plat 17 of 19.

The legal description was prepared by Chad Hanson, North Dakota Department of Transportation, 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700.

**20-22 MONUMENTS AND RIGHT OF WAY MARKERS –  
Standard Specifications for Road and Bridge Construction  
Adopted Oct. 2017**

### SECTION 720 MONUMENTS AND RIGHT OF WAY MARKERS

#### 720.01 DESCRIPTION

This work consists of furnishing and installing Alignment Monuments, Iron Pin R/W Monuments, Iron Pin Reference Monuments, and Right of Way Markers.

#### 720.02 EQUIPMENT

Reserved.

#### 720.03 MATERIALS

##### A. General.

Item	Section
<a href="#">Portland Cement Concrete Class AE</a>	<a href="#">802</a>
<a href="#">Epoxy Resin Adhesives</a>	<a href="#">806.02</a>
<a href="#">Deformed and Plain Steel Bars for Concrete Reinforcement</a>	<a href="#">836.02 A</a>

##### B. Right of Way Markers.

Right of way markers constructed of recycled plastic.

#### 720.04 CONSTRUCTION REQUIREMENTS

Provide a Professional Land Surveyor (PLS) licensed in the State of North Dakota to oversee monument placement. The PLS shall record all section corner and quarter corner monuments placed, in accordance with North Dakota Century Code. Submit a copy of the recordation.

A PLS is not required for the installation of right of way markers.

#### 720.05 METHOD OF MEASUREMENT

The Engineer will measure as specified in Section 109.01, "Measurement of Quantities".

#### 720.06 BASIS OF PAYMENT

Pay Item	Pay Unit
Alignment Monuments	Each
Iron Pin R/W Monuments	Each
Iron Pin Reference Monuments	Each
Right of Way Markers	Each

Include cost for removals of designated monuments or markers in the price bid for other items.

Include the cost of materials, installation and the Professional Land Surveyor in the price bid for "\_\_\_\_\_ Monuments".

Such payment is full compensation for furnishing all materials, equipment, labor, and incidentals to complete the work as specified.

20-24 STANDARD DRAWING D-720-1 - STANDARD MONUMENTS AND RIGHT OF WAY MARKERS

D-720-1

**STANDARD MONUMENTS AND RIGHT OF WAY MARKERS**

**MARKING DETAIL**

**RECYCLED PLASTIC RIGHT OF WAY MARKER (WITNESS POST) DETAILS & IRON PIN REFERENCE AND R/W MONUMENT DETAILS**

**SIGN DETAIL**

Black letters on orange high intensity background sheeting meeting ASTM D-4956 Type III or higher on 80 gauge 5052-H38 aluminum. Silk screen graphics. One color print. Attach sign by drilling two holes in the face of the post (side facing the private owner, away from the Department of Transportation right of way). Put inserts into the holes and mount the sign with #4 vandal proof screws. Install sign 2" from top of post.

**ALIGNMENT MONUMENT DETAILS**

**IRON PIN (Within Finished Roadway Surface)**

**IRON PIN (Within Finished Roadway Surface) (Outside Finished Roadway Surface) (Inside R/W Limits)**

**IRON PIN (Outside Finished Roadway Surface) (Outside R/W Limits)**

**PRECAST CONCRETE (Outside Finished Roadway Surface) (Outside R/W Limits)**

**VARIOUS MONUMENT AND MARKER PLACEMENTS**

**CURVE POINTS:**  
 PI  
 SPIRAL CURVE (TS, ST)  
 SIMPLE CURVE (PC, PT)

**DIVIDED HIGHWAYS SECTION CORNERS QUARTER CORNERS**

**LEGEND**

- Iron Pin Reference Monument
- R/W Marker (witness post)
- Alignment Monument
- ⊙ Iron Pin R/W Monument

**NOTES:**

Construct and install Alignment Monuments, Iron Pin Reference Monuments, Iron Pin R/W Monuments, and Right of Way Markers (witness posts) according to Section 720 of the Standard Specifications.

**ALIGNMENT MONUMENTS:** Place Iron Pin or Precast Concrete Alignment Monuments with aluminum caps on the centerline alignment PI's, section corners, quarter corners, section line crossings, quarter line crossings, and at curve points (PC's, PT's, TS's, and ST's) on the centerline.

**IRON PIN R/W MONUMENT:** Place Iron Pins with aluminum caps (No. 5 X 18") at breaks on the Right of Way line, and at curve points (PC's, PT's, TS's and ST's) on the Right of Way line.

**IRON PIN REFERENCE MONUMENT:** Place Iron Pins without aluminum caps (No. 5 X 18") as reference monuments on the Right of Way line at section corners, quarter corners, section line crossings, and quarter line crossings.

**R/W MARKERS (WITNESS POST) WITHIN DRIVEWAYS:** If a single iron pin R/W or Reference Monument is within a driveway, place right of way marker (witness post) 50 feet back, in stationing, from the iron pin monument along the R/W line. If R/W break is within a driveway, place right of way markers (witness posts) 50 feet back, or ahead from respective iron pin R/W Monuments along the R/W lines. Maintain iron pin R/W or Reference Monument original position within driveway.

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION		This document was originally issued and sealed by Roger Weigel Registration Number PE-2930, on 10-17-2017 and the original document is stored at the North Dakota Department of Transportation
10-3-2013 REVISIONS		
DATE	CHANGE	
11/12/13	Note for SIGN DETAIL modified to meet ASTM D-4956 Type III or higher on 80 gauge 5052-H38	
10/17/17	Updated to active voice.	

20-25 STANDARD RIGHT OF WAY PLAT SHEET TEMPLATE

DATE: mm/dd/yy		PROJECT NO. XX-0-000(000)000 MILE 000	PCN 00000	PARCEL Parcel Line1 Parcel Line2	PLAT NO. Plat Number	SUPPLEMENTS Supplements
CHECKED BY LS.: Name						
DATE: mm/dd/yy						
PLAT MADE BY: Name						
DATE SURVEY WAS COMPLETED: mm/dd/yy						

Basis of bearing is: Basis of Bearing

x All coordinates on this sheet are XXX County ground coordinates. They are derived from the NAD 83 (XXXX) Reference Frame; North Dakota XXX Zone, Combination Factor (cf) = XXX (International Foot)

x Assumed Coordinates

**THIS PLAT IS FOR INFORMATION ONLY. THE DATA ON THE PLAT IS NOT OFFICIAL UNTIL THE PLAT IS SEALED AND SIGNED BY A REGISTERED LAND SURVEYOR.**

LEGEND

- Iron Monument found
- ⊙ Iron Pin R/W Monument
- Iron Pin Reference Monument
- ⊠ Alignment Monument
- ↑ Controlled access point

GRAPHIC SCALE (in feet)

1" = 000'

NORTH DAKOTA  
DEPARTMENT OF TRANSPORTATION

**RIGHT OF WAY PLAT**

PROJECT NO. XX-0-000(000)000

County COUNTY

APPROVED \_\_\_\_\_  
Name XXX

DATE mm/dd/yy

SURVEYOR'S SEAL

This document is preliminary and not for recording or implementation purposes.

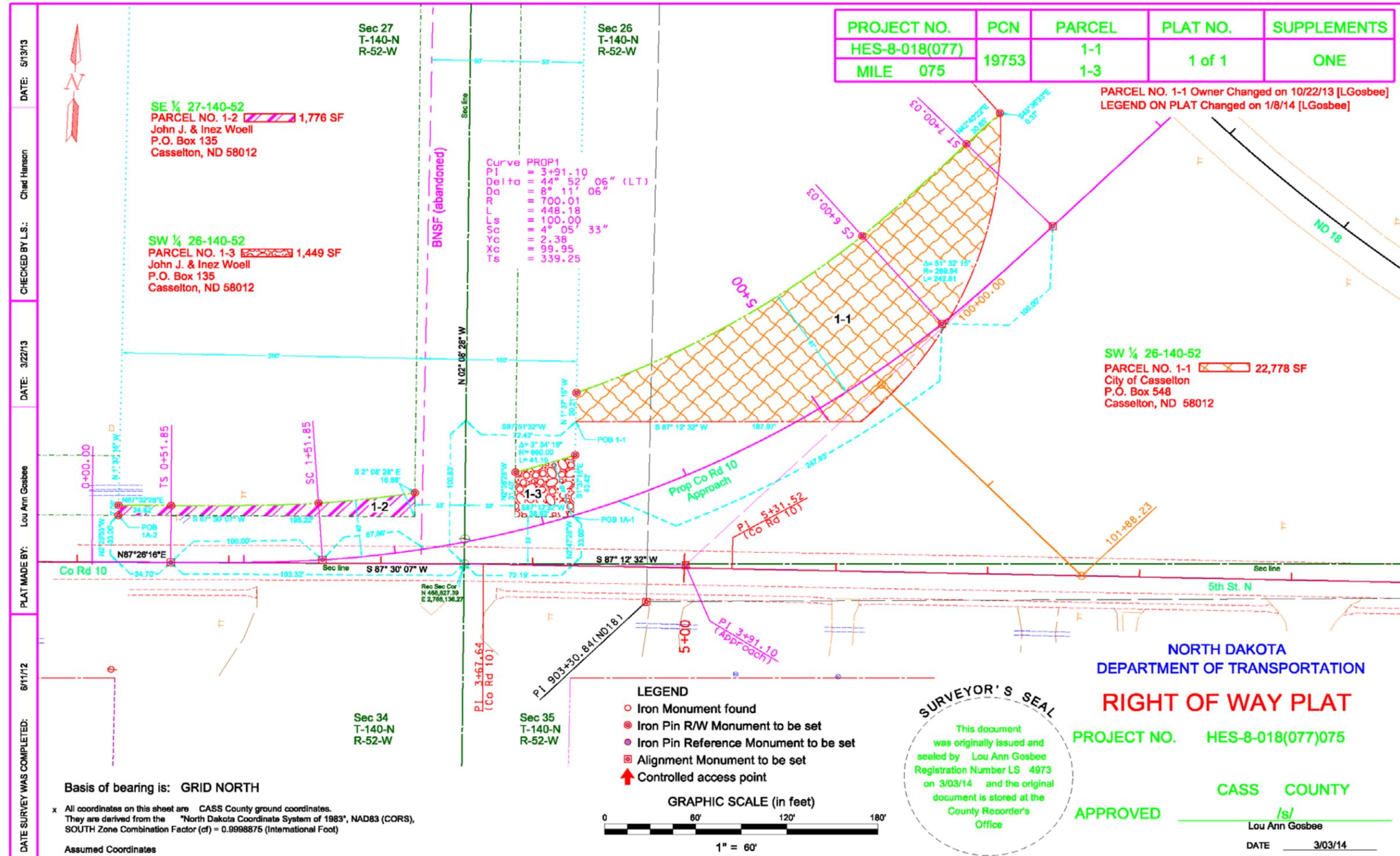
PRELIMINARY

20-26 STANDARD RIGHT OF WAY SUPPLEMENTAL SHEET TEMPLATE

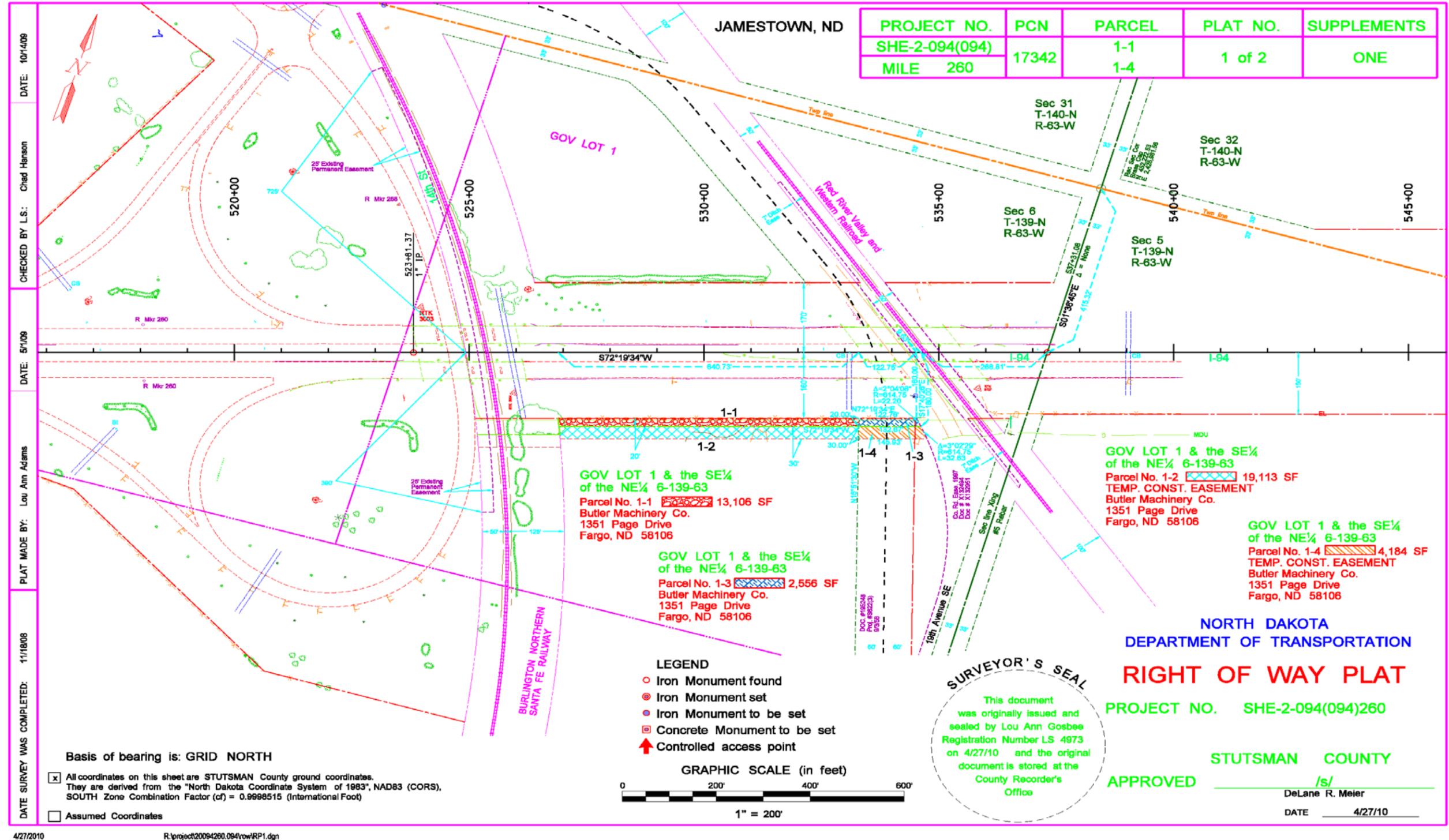
PROJECT NO. XX-0-000(000)000  
PCN. 00000  
SUPPLEMENT TO PLAT NO. 00 OF 00

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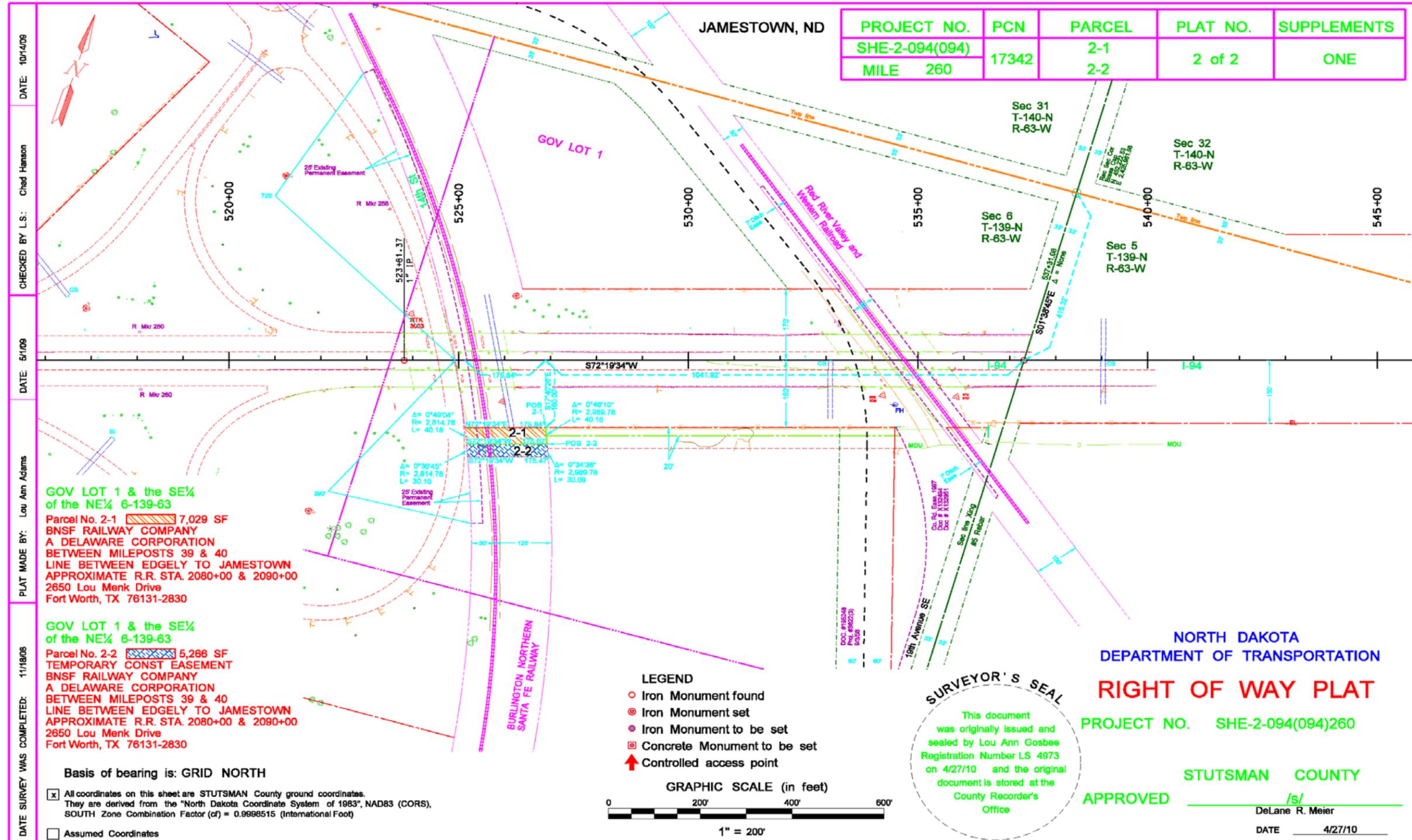
20-27 SAMPLES OF COMPLETED RIGHT OF WAY PLAT (PLAT #1)



20-27 SAMPLES OF COMPLETED RIGHT OF WAY PLAT (PLAT #2)

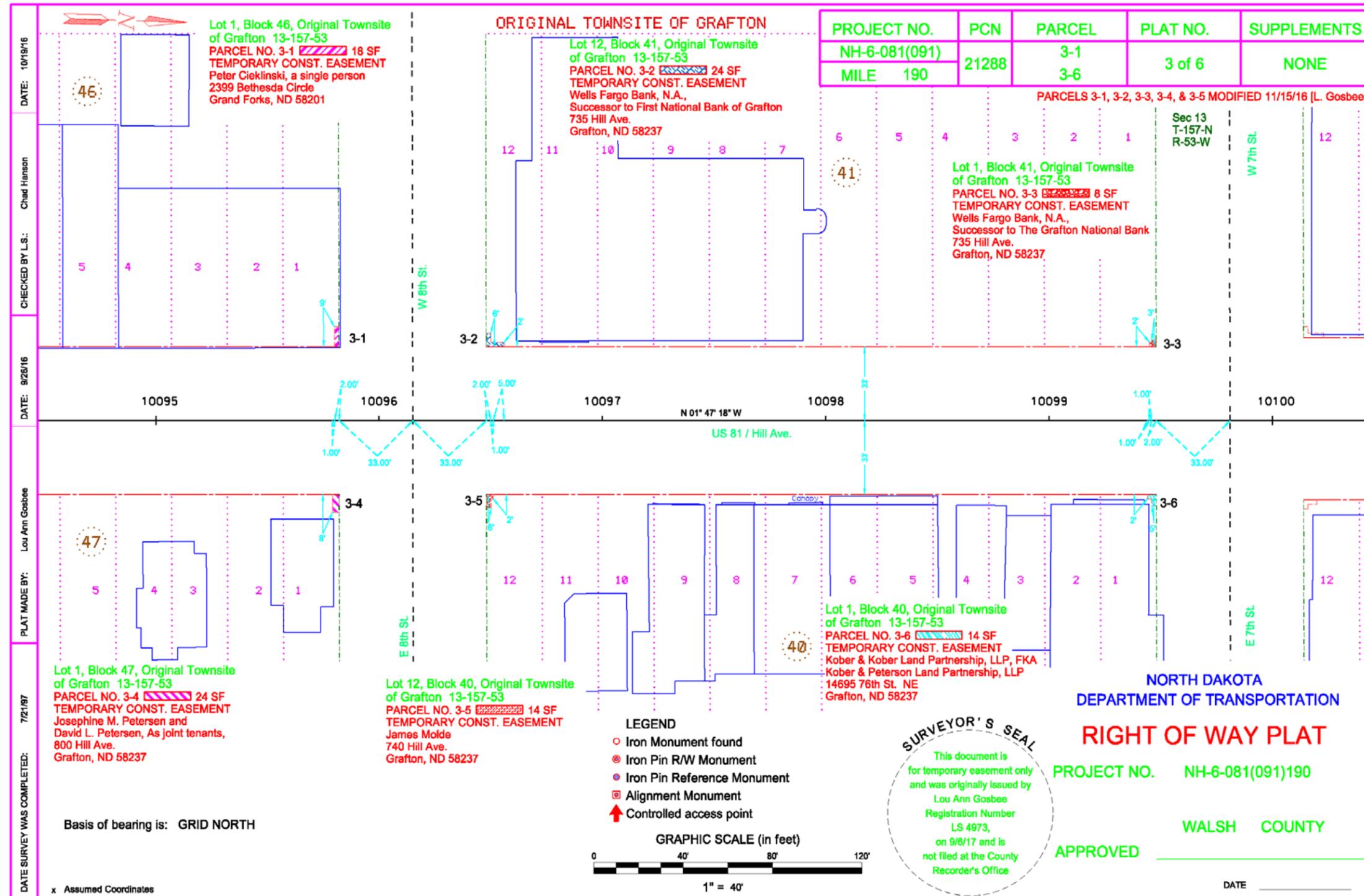


20-27 SAMPLES OF COMPLETED RIGHT OF WAY PLAT  
(PLAT #3 – Showing Validation Section, all Rail Road parcels are to be on a separate plat)

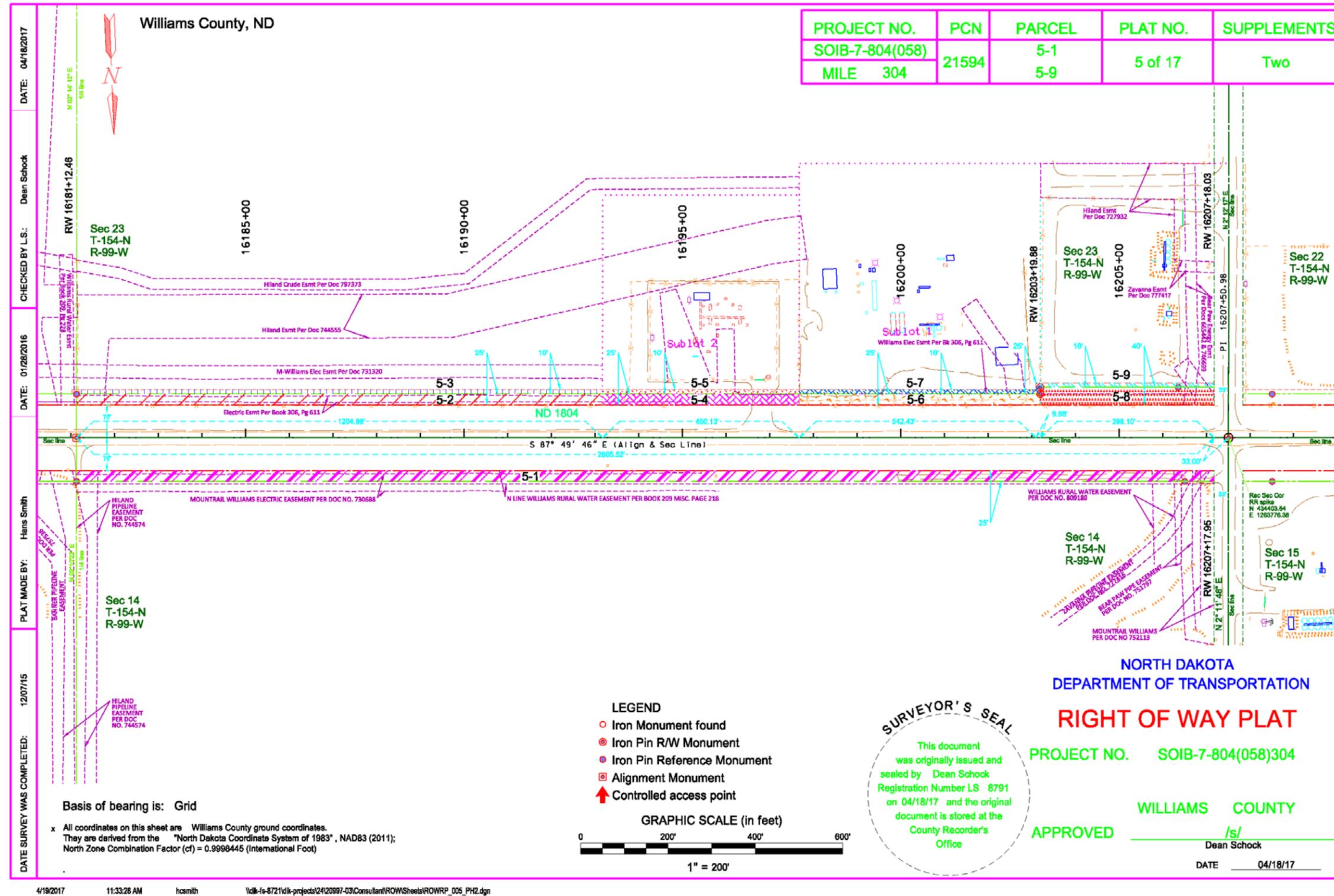


RIGHT OF WAY PLAT

20-27 SAMPLES OF RIGHT OF WAY PLAT  
(PLAT #4 – Temporary Easements)



20-27 SAMPLES OF COMPLETED RIGHT OF WAY PLAT (PLAT #5)



20-28 SAMPLES OF COMPLETED RIGHT OF WAY SUPPLEMENTAL SHEET

**PROJECT NO. SOIB-7-804(058)304**  
**PCN. 21594**  
**1ST SUPPLEMENT TO PLAT NO. 5 OF 17**

**SW $\frac{1}{4}$ , the N $\frac{1}{2}$  of the SE $\frac{1}{4}$ , and the SW $\frac{1}{4}$  of the SE $\frac{1}{4}$ , 14-154-99**  
Parcel 5-1  1.50 Acres  
Arla F. Grasser,  
Trustee of the Arla F. Grasser  
Revocable Living Trust  
dated May 18th, 2015  
1006 28th St. W  
Williston, ND 58801

**N $\frac{1}{2}$  of the NW $\frac{1}{4}$ , LESS Sublots 1 and 2, 23-154-99**  
Parcel 5-2  0.69 Acres  
Leonard T. Harstad  
12542 Highway 1804  
Williston, ND 58801  
(as described in Book 217 of Deeds, pg 271)

**N $\frac{1}{2}$  of the NW $\frac{1}{4}$ , LESS Sublots 1 and 2, 23-154-99**  
Parcel 5-3  0.28 Acres  
Temp. Const. Easement  
Leonard T. Harstad  
12542 Highway 1804  
Williston, ND 58801  
(as described in Book 217 of Deeds, pg 271)

**Sublot 2 in the N $\frac{1}{2}$  of the NW $\frac{1}{4}$  23-154-99**  
Parcel 5-4  0.26 Acres  
Mountrail-Williams Electric Cooperative  
4904 2nd Avenue West  
Williston, ND 58801  
(as described in Doc. 774250)

**Sublot 2 in the N $\frac{1}{2}$  of the NW $\frac{1}{4}$  23-154-99**  
Parcel 5-5  0.10 Acres  
Temp. Const. Easement  
Mountrail-Williams Electric Cooperative  
4904 2nd Avenue West  
Williston, ND 58801  
(as described in Doc. 774250)

**Sublot 1 in the NW $\frac{1}{4}$  of the NW $\frac{1}{4}$  23-154-99**  
Parcel 5-6  0.32 Acres  
Hiland Operating, LLC dba Hiland  
Partners Holdings, LLC a Delaware  
limited liability company, as of 7/17/15  
1001 Louisiana St., Ste. 1000  
Houston, TX 77002-5089

**Sublot 1 in the NW $\frac{1}{4}$  of the NW $\frac{1}{4}$  23-154-99**  
Parcel 5-7  0.13 Acres  
Temp. Const. Easement  
Hiland Operating, LLC dba Hiland  
Partners Holdings, LLC a Delaware  
limited liability company, as of 7/17/15  
1001 Louisiana St., Ste. 1000  
Houston, TX 77002-5089

**N $\frac{1}{2}$  of the NW $\frac{1}{4}$ , LESS Sublots 1 and 2, 23-154-99**  
Parcel 5-8  0.37 Acres  
Leonard T. Harstad  
12542 Highway 1804  
Williston, ND 58801  
(as described in Book 217 of Deeds, pg 271)

**N $\frac{1}{2}$  of the NW $\frac{1}{4}$ , LESS Sublots 1 and 2, 23-154-99**  
Parcel 5-9  0.09 Acres  
Temp. Const. Easement  
Leonard T. Harstad  
12542 Highway 1804  
Williston, ND 58801  
(as described in Book 217 of Deeds, pg 271)

**Parcel Number 5-1**  
A portion of the SW 1/4, the N 1/2 of the SE 1/4, and the SW 1/4 of the SE 1/4 of Section 14, Township 154 N, Range 99 W, of the 5th Principal Meridian, County of Williams, State of North Dakota, described as follows and as shown on plat 5 of 17:  
A strip of land 25 feet wide, the southerly and northerly lines of which are parallel. The southerly line of said strip being 75 feet northerly of and parallel with the following described centerline as surveyed.  
Commencing at the SW corner of section 14, which is also a point on the survey centerline of ND 1804, thence easterly along the south line of section 14, which is also the survey centerline of ND 1804, S 87 deg. 49 min. 46 sec. E a distance of 33.00 feet to the beginning of the 25 foot strip, in which the westerly end of said strip is 33 feet easterly of and parallel with the west line of section 14. Thence S 87 deg. 49 min. 46 sec. E a distance of 2605.52 feet to the end of the 25 foot strip, in which the easterly end of said strip is along the 1/4 line of section 14.  
Said strip is shown on the plat as parcel 5-1 and contains 1.50 Acres more or less, and is subject to any easements or rights of way previously acquired.  
END OF DESCRIPTION.  
The legal description was prepared by Hans Smith, DOWL LLC, 140 1st Street East, Dickinson, North Dakota 58601.

**Parcel Number 5-2**  
A portion of the N 1/2 of the NW 1/4, Less Sublots 1 and 2 of Section 23, Township 154 N, Range 99 W, of the 5th Principal Meridian, County of Williams, State of North Dakota, described as follows and as shown on plat 5 of 17:  
A strip of land 25 feet wide, the northerly and southerly lines of which are parallel. The northerly line of said strip being 75 feet southerly of and parallel with the following described centerline as surveyed.  
Commencing at the NW corner of section 23, which is also a point on the survey centerline of ND 1804, thence easterly along the north line of section 23, which is also the survey centerline of ND 1804, S 87 deg. 49 min. 46 sec. E a distance of 1433.64 feet to the beginning of the 25 foot strip, in which the westerly end of said strip is along the westerly property line of that property described in Book 217 of Deeds, pg 271 stored at the Williams County Recorders Office. Thence S 87 deg. 49 min. 46 sec. E a distance of 1204.88 feet to the end of the 25 foot strip, in which the easterly end of said strip is along the 1/4 line of section 23.  
Said strip is shown on the plat as parcel 5-2 and contains 0.69 Acres more or less, and is subject to any easements or rights of way previously acquired.  
END OF DESCRIPTION.  
The legal description was prepared by Hans Smith, DOWL LLC, 140 1st Street East, Dickinson, North Dakota 58601.

**Parcel Number 5-3**  
A portion of the N 1/2 of the NW 1/4, Less Sublots 1 and 2 of Section 23, Township 154 N, Range 99 W, of the 5th Principal Meridian, County of Williams, State of North Dakota, described as follows and as shown on plat 5 of 17:  
A strip of land 10 feet wide, the northerly and southerly lines of which are parallel. The northerly line of said strip being 100 feet southerly of and parallel with the following described centerline as surveyed.  
Commencing at the NW corner of section 23, which is also a point on the survey centerline of ND 1804, thence easterly along the north line of section 23, which is also the survey centerline of ND 1804, S 87 deg. 49 min. 46 sec. E a distance of 1433.64 feet to the beginning of the 10 foot strip, in which the westerly end of said strip is along the westerly property line of that property described in Book 217 of Deeds, pg 271 stored at the Williams County Recorders Office. Thence S 87 deg. 49 min. 46 sec. E a distance of 1204.88 feet to the end of the 10 foot strip, in which the easterly end of said strip is along the 1/4 line of section 23.  
It is a condition of this easement that it shall not be filed for record and that all rights conveyed to the state of North Dakota and North Dakota Department of Transportation by this instrument shall terminate upon completion of construction of said project, or in five years from the date of conveyance, whichever comes first.  
Said strip is shown on the plat as parcel 5-3 and contains 0.28 Acres more or less, and is subject to any easements or rights of way previously acquired.  
END OF DESCRIPTION.  
The legal description was prepared by Hans Smith, DOWL LLC, 140 1st Street East, Dickinson, North Dakota 58601.

4/19/2017 11:33:29 AM hsmith \\dlk-fs-8721\dlk-projects\24\20997-03\Consultant\ROWSheets\ROWRP\_005-SA\_PH2.dgn

## 20-28 SAMPLES OF COMPLETED RIGHT OF WAY SUPPLEMENTAL SHEET

PROJECT NO. SOIB-7-804(058)304  
 PCN. 21594  
 2ND SUPPLEMENT TO PLAT NO. 5 OF 17

## Parcel Number 5-4

A portion of Sublot 2 in the N 1/2 of the NW 1/4 of Section 23, Township 154 N, Range 99 W, of the 5th Principal Meridian, County of Williams, State of North Dakota, described as follows and as shown on plat 5 of 17:

A strip of land 25 feet wide, the northerly and southerly lines of which are parallel. The northerly line of said strip being 75 feet southerly of and parallel with the following described centerline as surveyed.

Commencing at the NW corner of section 23, which is also a point on the survey centerline of ND 1804, thence easterly along the north line of section 23, which is also the survey centerline of ND 1804, S 87 deg. 49 min. 46 sec. E a distance of 983.51 feet to the beginning of the 25 foot strip, in which the westerly end of said strip is along the westerly property line of that property described in document no. 774250 stored at the Williams County Recorders Office. Thence S 87 deg. 49 min. 46 sec. E a distance of 450.13 feet to the end of the 25 foot strip, in which the easterly end of said strip is along the easterly property line of that property described in document no. 774250 stored at the Williams County Recorders Office.

Said strip is shown on the plat as parcel 5-4 and contains 0.26 Acres more or less, and is subject to any easements or rights of way previously acquired.

END OF DESCRIPTION.

The legal description was prepared by Hans Smith, DOWL LLC, 140 1st Street East, Dickinson, North Dakota 58601.

## Parcel Number 5-5

A portion of Sublot 2 in the N 1/2 of the NW 1/4 of Section 23, Township 154 N, Range 99 W, of the 5th Principal Meridian, County of Williams, State of North Dakota, described as follows and as shown on plat 5 of 17:

A strip of land 10 feet wide, the northerly and southerly lines of which are parallel. The northerly line of said strip being 100 feet southerly of and parallel with the following described centerline as surveyed.

Commencing at the NW corner of section 23, which is also a point on the survey centerline of ND 1804, thence easterly along the north line of section 23, which is also the survey centerline of ND 1804, S 87 deg. 49 min. 46 sec. E a distance of 983.51 feet to the beginning of the 10 foot strip, in which the westerly end of said strip is along the westerly property line of that property described in document no. 774250 stored at the Williams County Recorders Office. Thence S 87 deg. 49 min. 46 sec. E a distance of 450.13 feet to the end of the 10 foot strip, in which the easterly end of said strip is along the easterly property line of that property described in document no. 774250 stored at the Williams County Recorders Office.

It is a condition of this easement that it shall not be filed for record and that all rights conveyed to the state of North Dakota and North Dakota Department of Transportation by this instrument shall terminate upon completion of construction of said project, or in five years from the date of conveyance, whichever comes first.

Said strip is shown on the plat as parcel 5-5 and contains 0.10 Acres more or less, and is subject to any easements or rights of way previously acquired.

END OF DESCRIPTION.

The legal description was prepared by Hans Smith, DOWL LLC, 140 1st Street East, Dickinson, North Dakota 58601.

## Parcel Number 5-6

A portion of Sublot 1 in the NW 1/4 of the NW 1/4 of Section 23, Township 154 N, Range 99 W, of the 5th Principal Meridian, County of Williams, State of North Dakota, described as follows and as shown on plat 5 of 17:

A strip of land 25 feet wide, the northerly and southerly lines of which are parallel. The northerly line of said strip being 75 feet southerly of and parallel with the following described centerline as surveyed.

Commencing at the NW corner of section 23, which is also a point on the survey centerline of ND 1804, thence easterly along the north line of section 23, which is also the survey centerline of ND 1804, S 87 deg. 49 min. 46 sec. E a distance of 431.10 feet to the beginning of the 25 foot strip, in which the westerly end of said strip is along the westerly property line of that property described in document no. 727931 stored at the Williams County Recorders Office. Thence S 87 deg. 49 min. 46 sec. E a distance of 552.41 feet to the end of the 25 foot strip, in which the easterly end of said strip is along the easterly property line of that property described in document no. 727931 stored at the Williams County Recorders Office.

Said strip is shown on the plat as parcel 5-6 and contains 0.32 Acres more or less, and is subject to any easements or rights of way previously acquired.

END OF DESCRIPTION.

The legal description was prepared by Hans Smith, DOWL LLC, 140 1st Street East, Dickinson, North Dakota 58601.

## Parcel Number 5-7

A portion of Sublot 1 in the NW 1/4 of the NW 1/4 of Section 23, Township 154 N, Range 99 W, of the 5th Principal Meridian, County of Williams, State of North Dakota, described as follows and as shown on plat 5 of 17:

A strip of land 25 feet wide, the northerly and southerly lines of which are parallel. Together with a strip of land 10 feet wide, the northerly and southerly lines of which are parallel. The northerly line of said strips being 100 feet southerly of and parallel with the following described centerline as surveyed.

Commencing at the NW corner of section 23, which is also a point on the survey centerline of ND 1804, thence easterly along the north line of section 23, which is also the survey centerline of ND 1804, S 87 deg. 49 min. 46 sec. E a distance of 431.10 feet to the beginning of the 25 foot strip, in which the westerly end of said strip is along the westerly property line of that property described in document no. 727931 stored at the Williams County Recorders Office. Thence S 87 deg. 49 min. 46 sec. E a distance of 9.98 feet to the end of the 25 foot strip. This point is also the beginning of the 10 foot strip. Thence S 87 deg. 49 min. 46 sec. E a distance of 542.43 feet to the end of the 10 foot strip, in which the easterly end of said strip is along the easterly property line of that property described in document no. 727931 stored at the Williams County Recorders Office.

It is a condition of this easement that it shall not be filed for record and that all rights conveyed to the state of North Dakota and North Dakota Department of Transportation by this instrument shall terminate upon completion of construction of said project, or in five years from the date of conveyance, whichever comes first.

Said strips are shown on the plat as parcel 5-7 and contains 0.13 Acres more or less, and are subject to any easements or rights of way previously acquired.

END OF DESCRIPTION.

The legal description was prepared by Hans Smith, DOWL LLC, 140 1st Street East, Dickinson, North Dakota 58601.

## Parcel Number 5-8

A portion of the N 1/2 of the NW 1/4, LESS Sublots 1 and 2 of Section 23, Township 154 N, Range 99 W, of the 5th Principal Meridian, County of Williams, State of North Dakota, described as follows and as shown on plat 5 of 17:

A strip of land 40 feet wide, the northerly and southerly lines of which are parallel. The northerly line of said strip being 75 feet southerly of and parallel with the following described centerline as surveyed.

Commencing at the NW corner of section 23, which is also a point on the survey centerline of ND 1804, thence easterly along the north line of section 23, which is also the survey centerline of ND 1804, S 87 deg. 49 min. 46 sec. E a distance of 33.00 feet to the beginning of the 40 foot strip, in which the easterly end of said strip is 33 feet westerly of and parallel with the west line of section 23. Thence S 87 deg. 49 min. 46 sec. E a distance of 398.10 feet to the end of the 40 foot strip, in which the easterly end of said strip is along the easterly property line of that property as described in Book 217 of Deeds, pg. 271 stored at the Williams County Recorders Office.

Said strip is shown on the plat as parcel 5-8 and contains 0.37 Acres more or less, and is subject to any easements or rights of way previously acquired.

END OF DESCRIPTION.

The legal description was prepared by Hans Smith, DOWL LLC, 140 1st Street East, Dickinson, North Dakota 58601.

## Parcel Number 5-9

A portion of the N 1/2 of the NW 1/4, LESS Sublots 1 and 2 of Section 23, Township 154 N, Range 99 W, of the 5th Principal Meridian, County of Williams, State of North Dakota, described as follows and as shown on plat 5 of 17:

A strip of land 10 feet wide, the northerly and southerly lines of which are parallel. The northerly line of said strip being 115 feet southerly of and parallel with the following described centerline as surveyed.

Commencing at the NW corner of section 23, which is also a point on the survey centerline of ND 1804, thence easterly along the north line of section 23, which is also the survey centerline of ND 1804, S 87 deg. 49 min. 46 sec. E a distance of 33.00 feet to the beginning of the 10 foot strip, in which the easterly end of said strip is 33 feet westerly of and parallel with the west line of section 23. Thence S 87 deg. 49 min. 46 sec. E a distance of 398.10 feet to the end of the 10 foot strip, in which the easterly end of said strip is along the easterly property line of that property as described in Book 217 of Deeds, pg. 271 stored at the Williams County Recorders Office.

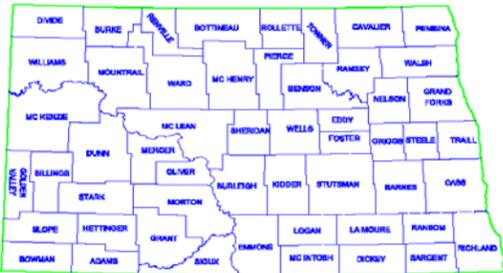
It is a condition of this easement that it shall not be filed for record and that all rights conveyed to the state of North Dakota and North Dakota Department of Transportation by this instrument shall terminate upon completion of construction of said project, or in five years from the date of conveyance, whichever comes first.

Said strip is shown on the plat as parcel 5-9 and contains 0.09 Acres more or less, and is subject to any easements or rights of way previously acquired.

END OF DESCRIPTION.

The legal description was prepared by Hans Smith, DOWL LLC, 140 1st Street East, Dickinson, North Dakota 58601.

20-20-29 STANDARD RIGHT OF WAY TITLE SHEET TEMPLATE

<p style="text-align: center;">SURVEYOR'S SEAL</p> <p style="text-align: center;">This document is preliminary and not for recording or implementation purposes.</p> <p style="text-align: center;">XXX Name REGISTERED LAND SURVEYOR</p> <p style="text-align: center;">mm/dd/yy DATE</p>	<p>NORTH DAKOTA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY PLAT of XX-0-000(000)000 PCN. 00000 In County</p>	<table border="1"> <thead> <tr> <th>PLAT NO.</th> <th>PARCELS</th> </tr> </thead> <tbody> <tr> <td style="height: 400px;"></td> <td style="height: 400px;"></td> </tr> </tbody> </table>	PLAT NO.	PARCELS		
PLAT NO.	PARCELS					
<p style="color: magenta;">For Recording Purposes Only</p>						
 <p style="text-align: center;">SKETCH MAP OF NORTH DAKOTA</p>						



20-31 SAMPLE OF COMPLETED ENGINEER'S AFFIDAVIT SHEET FOR TRIBAL LANDS

**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION  
PROPOSED HIGHWAY IMPROVEMENT THROUGH  
FORT BERTHOLD RESERVATION  
MOUNTRAIL COUNTY  
SOIA-SAP-7-023(037)927**

**ENGINEER'S AFFIDAVIT**

State of North Dakota  
County of MOUNTRAIL

Mr. Ron Henke, P.E., being first duly sworn, states that he the Deputy Director for Engineering for the North Dakota Department of Transportation, hereinafter designated the "Applicant"; that the survey of the highway shown on this plat was made under the direction of the Deputy Director for Engineering of the Applicant and under its authority; and that said right of way, 3.183 miles in length, beginning in Sec. 7, Twp. 152 N., Rge. 92 W., and ending in Sec. 15, Twp. 152 N., Rge. 92 W and that such survey is accurately represented on the accompanying plats.

*Ron Henke*  
DEPUTY DIRECTOR FOR ENGINEERING  
NORTH DAKOTA DEPARTMENT OF TRANSPORTATION (Applicant)

Subscribed and sworn to before me this 9<sup>th</sup> day of October, 2013.

My Commission Expires: 11/17/2017

Notary Public: *Ronald S. Barchenger*

**RAYMOND S. BARCHENGER**  
Notary Public  
State of North Dakota  
My Commission Expires Nov. 17, 2017

**APPLICANT'S CERTIFICATE**

I, Grant Levi, P.E., do hereby certify that I am the Director of the North Dakota Department of Transportation for the state of North Dakota; that Mr. Ron Henke, P.E., who subscribed the accompanying affidavit, is the Deputy Director for Engineering; that the survey of the said highway as accurately represented on this plat was made under the authority of the Deputy Director for Engineering; that the location of said right of way, 3.183 miles in length, beginning in Sec. 7, Twp. 152 N., Rge. 92 W., and ending in Sec. 15, Twp. 152 N., Rge. 92 W. is accurately represented on this plat; that such survey as represented on this plat has been adopted by the applicant as the definite location of right of way hereby shown; and that the plats have been prepared to be filed with the Secretary of Interior or his duly authorized representative as part of the application for said right of way to be granted the applicant, its successors, and assigns, with the right to construct, maintain, and repair improvements thereon and thereover, for such purposes, and with the further right in the applicant, its successors and assigns, to transfer this right of way by assignment, grant, or otherwise.

*Grant Levi*  
DIRECTOR OF THE NORTH DAKOTA DEPARTMENT OF TRANSPORTATION (Applicant)

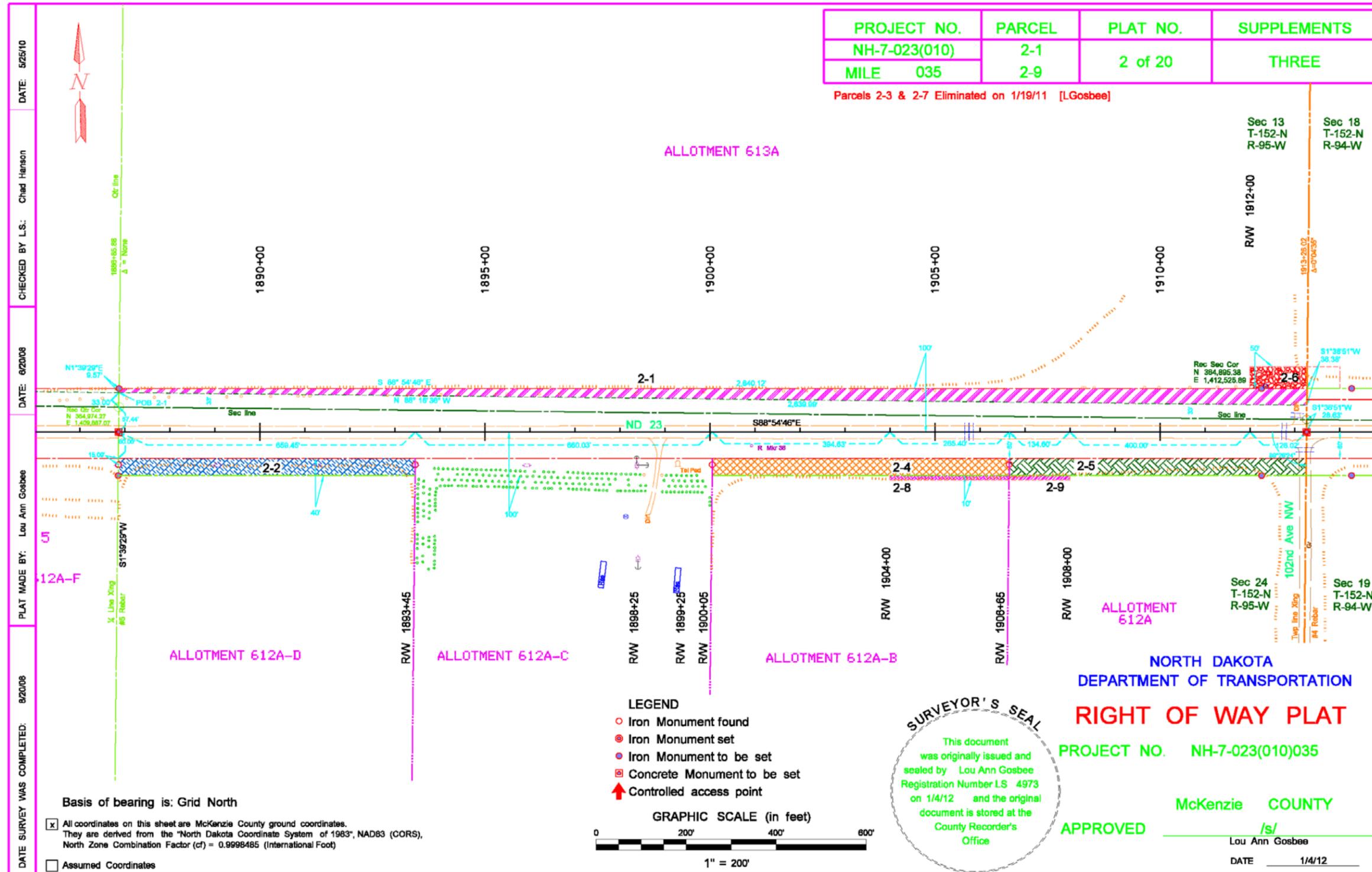
Subscribed and sworn to before me this 9<sup>th</sup> day of October, 2013.

My Commission Expires: 11/17/2017

Notary Public: *Ronald S. Barchenger*

**RAYMOND S. BARCHENGER**  
Notary Public  
State of North Dakota  
My Commission Expires Nov. 17, 2017

20-32 SAMPLE OF COMPLETED PLAT FOR TRIBAL LANDS



1/23/2012

R:\project7\0023035.010\ROW\2007\RP2.dgn

20-33 SAMPLE OF COMPLETED SUPPLEMENTAL SHEET FOR TRIBAL LANDS

PROJECT NO. NH-7-023(010)035  
PCN. 22  
1st SUPPLEMENT TO PLAT NO. 2 OF 20

Allotment 613A  
SE¼ 13-152-95

PARCEL NO. 2-1 1.45 ACRES

Myron J. Gwin, 719 Colgate Ave., Blg Spring, TX 79720	0.04629629630
Albert L. Reum, 5885 7th St. NE, Fridley, MN 55432	0.00185185190
Three Affiliated Tribes, ATTN: Treasurer, 404 Frontage Rd., New Town, ND 58763	0.09005185190
Angus (Augus) B. Fox, P.O. Box 451, New Town, ND 58763	0.04543209880
Marian Shields, P.O. Box 277, Wolf Point, MT 59201	0.12962962960
Zandra M. Ziebart, P.O. Box 428, New Town, ND 58763	0.00077160490
Gerald Tex Fox, C/O BIA Supt. P.O. Box 370, New Town, ND 58763	0.01543209880
Monica K. Lyson, P.O. Box 86, New Town, ND 58763	0.00077160490
Gabriel Leland Dubois, P.O. Box 532 Hays, MT 59527	0.00185185190
Debbie D. Joseph, P.O. Box 583, Nespelem, WA 99155	0.00185185190
Jeffrey G. Fox, P.O. Box 562, New Town, ND 58763	0.00077160490
Wilhemina F. Dubois, P.O. Box 1057, New Town, ND 58763	0.00185185190
David A. Fox, P.O. Box 115, New Town, ND 58763	0.00077160490
Orville C. Fox, P.O. Box 135, New Town, ND 58763	0.00077160490
Ricky A. Little Swallow, P.O. Box 111, New Town, ND 58763	0.46296296300
Carmen Louise Fox, P.O. Box 115, New Town, ND 58763	0.00771604940
James Carl Dubois, 502 S 16th St., Bismarck, ND 58504	0.00185185190
Patrick N. Dubois, P.O. Box 33, Worley, ID 83876	0.00185185190
Ardella Fox, P.O. Box 302, New Town, ND 58763	0.00077160490
Jody Gorman, P.O. Box 1391, New Town, ND 58763	0.00077160490
Jolene Burr, P.O. Box 52, New Town, ND 58763	0.00077160490
Kelly J. Fox, P.O. Box 136, New Town, ND 58763	0.00694444440
Peter D. Fox, P.O. Box 95, New Town, ND 58763	0.00694444440
Thomas J. Fox, 100 6th Ave. SE, Mandan, ND 58554	0.01388888890
Guy B. Fox, 3139 23rd Ave. S - Unit E, Fargo, ND 58103	0.06111604940
Matthew T. Thornton, 12 Casey Tibbs Cr., Rozet, WY 82727	0.06111604940
George A. Fode, 1008 East 3rd St., Anaconda, MT 59711	0.00034293550
Alicia A. Gwin, 1008 E. 3rd St. Anaconda, MT 59711	0.00034293550
Brandon R. Gwin, 1008 E 3rd St., Anaconda, MT 59711	0.00034293550
Mary E. Dauphinals, 223 N Walnut St #14, Devils Lake, ND 58301	0.00462962960
Clayton G. Peltier, 223 13th St. NW, Devils Lake, ND 58301	0.00066137570
Raymond A. Peltier, 223 13th St. NW, Devils Lake, ND 58301-1521	0.00066137570
Daniel N. Peltier Sr., 3843 81st Ave. NE, St. Michael, ND 58370	0.00066137570
Debbie A. Peltier, 301 W. 13th, Devils Lake, ND 58301	0.00066137570
Douglas J. Peltier, 5020 Silver Gate Dr., Grand Forks, ND 58203-1867	0.00066137570
Lisa A. Engh, 1010 4th St., Devils Lake, ND 58301	0.00066137570
Lawrence C. Gwin, 1310 Grizzly Trail, Butte, MT 59701	0.00102880660
Dennis R. Gwin Sr., 220 Ceder Park Homes, Anaconda, MT 59711	0.00102880660
Martin E. Gwin, 805 E 8th St., Anaconda, MT 59711	0.00102880660
Clara G. Torvinen, P.O. Box 242, Jewell, KS 66949-0242	0.00102880660
Margaret A. Fode, 713 E 5th St., Anaconda MT 59711	0.00102880660
Maynard J. Gwin, 120 Howe St., Anaconda, MT 59701	0.00102880660
Peter C. Gwin, 713 E 5th St., Anaconda, MT 59711	0.00102880660
Francis G. Gwin, 523 Pine Street, Anaconda, MT 59711	0.00102880660
Crissy A. Red Cloud, 4742 Obrist Rd., The Dalles, OR 97058	0.00185185190
Diana L. Red Cloud, 4742 Obrist Rd., The Dalles, OR 97058	0.00185185190
Gabriel M. Red Cloud, 4742 Obrist Rd., The Dalles, OR 97058	0.00185185190
Louis B. Red Cloud, 21312 41st Ct. W, Mountlake Terrace, WA 98043	0.00185185190
Rebecca L. Chaske, P.O. Box 29, Fort Totten, ND 58335-0029	0.00033068780
Ashley J. Peltier, P.O. Box 1072, Devils Lake, ND 58301-1072	0.00033068780
Cornie M. Hoffman-Reopelle, 1916 Adams Ave., Butte, MT 59701	0.00925925930
TOTAL INTEREST	1.00000000050

Allotment 612A-D  
of the NE¼  
24-152-95

Parcel No. 2-2 0.61 ACRES  
Three Affiliated Tribes  
404 Frontage Road  
New Town, ND 58763-9402  
TOTAL INTEREST 1.00000000000

Allotment 612A-C  
of the NE¼ 24-152-95

Parcel No. 2-3 0.61 ACRES  
Three Affiliated Tribes  
404 Frontage Road  
New Town, ND 58763-9402  
TOTAL INTEREST 1.00000000000

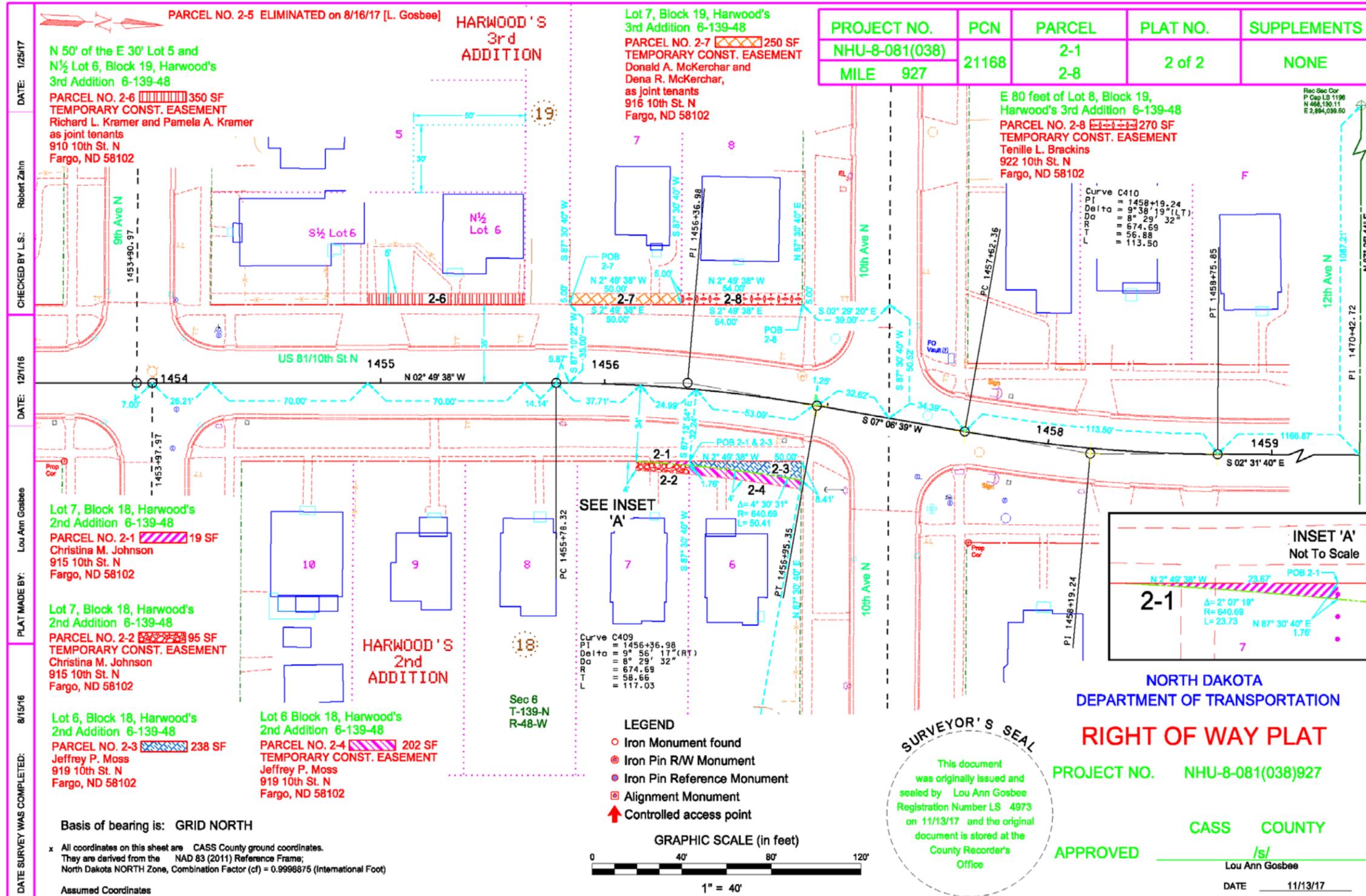
Allotment 612A-B  
of the NE¼ of the NE¼  
24-152-95

Parcel No. 2-4 0.61 ACRES  
Myron Cody Johnson  
P.O. Box 538  
New Town, ND 58763  
TOTAL INTEREST 1.00000000000

Allotment 612A  
of the NE¼ of the NE¼  
24-152-95

Parcel No. 2-5 0.61 ACRES	
Luana C. (Smith) Lone Bear, P.O. Box 1114, New Town, ND 58763	0.50000000000
Vincent T. Many Ribs, P.O. Box 474, Parshall, ND 58770	0.16666666667
Emanuel V. Many Ribs, P.O. Box 474 Parshall, ND 58770	0.16666666667
Candace L. Many Ribs,	0.16666666667
Sheila M. Many Ribs	
Parent of Candace L. Many Ribs	
P.O. Box 474	
Parshall, ND 58770	
TOTAL INTEREST	1.00000000000

20-34 SAMPLE PLAT WITH CURVES



11/13/2017 10:10:26 AM lgosbee R:\project\80081927.038\row\RP2.dgn

20-34 SAMPLE SUPPLEMENT WITH CURVES

PROJECT NO. NHU-8-081(038)927
PCN. 21168
1st SUPPLEMENT TO PLAT NO. 2 OF 2

Parcel Number 2-1

A portion of Lot 7, Block 18, Harwood's 2nd Addition of Section 6, Township 139 N, Range 48 W, of the 5th Principal Meridian, County of Cass, State of North Dakota, described as follows and as shown on plat 2 of 2:

Commencing at the NW corner of section 6, thence easterly along the north line of section 6, N 87 deg. 25 min. 14 sec. E a distance of 1087.21 feet to a point on the survey centerline of US 81/10th St. N. Thence S 02 deg. 31 min. 40 sec. E along US 81/10th St. N a distance of 1166.87 feet to the beginning of a tangent curve, concave to the right (westerly), having a radius of 674.69 feet. Thence southerly along said curve 113.50 feet through a central angle of 09 deg. 38 min. 19 sec. to the end of the curve. Thence S 07 deg. 06 min. 39 sec. W a distance of 67.01 feet to the beginning of a tangent curve, concave to the left (easterly), having a radius of 674.69 feet. Thence southerly along said curve 54.34 feet through a central angle of 04 deg. 36 min. 53 sec. to a point on the curve. Thence S 87 deg. 13 min. 54 sec. E a distance of 32.24 feet to the point of beginning. Thence N 87 deg. 30 min. 40 sec. E along the north line of Lot 7 a distance of 1.76 feet to a point on a non-tangent curve concave to the left (easterly) the radius point of which bears S 87 deg. 30 min. 14 sec. E a distance of 640.69 feet. Thence southerly along said curve 23.73 feet through a central angle of 02 deg. 07 min. 19 sec. to the end of the curve. Thence N 02 deg. 49 min. 38 sec. W along the existing easterly right of way of US 81/10th St. N a distance of 23.67 feet to the point of beginning.

Said parcel is shown on the plat as parcel 2-1 and contains 19 SF more or less, and is subject to any easements or rights of way previously acquired.

END OF DESCRIPTION.

The legal description was prepared by Lou Ann Gosbee, North Dakota Department of Transportation, 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700.

Parcel Number 2-2

A portion of Lot 7, Block 18, Harwood's 2nd Addition of Section 6, Township 139 N, Range 48 W, of the 5th Principal Meridian, County of Cass, State of North Dakota, described as follows and as shown on plat 2 of 2:

A strip of land 4 feet wide, the easterly and westerly lines of which are parallel. The westerly line of said strip being 34 feet easterly of and parallel with the following described centerline as surveyed.

Commencing at the NW corner of section 6, thence easterly along the north line of section 6, N 87 deg. 25 min. 14 sec. E a distance of 1087.21 feet to a point on the survey centerline of US 81/10th St. N. Thence S 02 deg. 31 min. 40 sec. E along US 81/10th St. N a distance of 1166.87 feet to the beginning of a tangent curve, concave to the right (westerly), having a radius of 674.69 feet. Thence southerly along said curve 113.50 feet through a central angle of 09 deg. 38 min. 19 sec. to the end of the curve. Thence S 07 deg. 06 min. 39 sec. W a distance of 67.01 feet to the beginning of a tangent curve, concave to the left (easterly), having a radius of 674.69 feet. Thence southerly along said curve 54.34 feet through a central angle of 04 deg. 36 min. 53 sec. to the beginning of the 4 foot strip. Thence continuing along said curve 24.99 feet through a central angle of 02 deg. 07 min. 19 sec. to the end of the 4 foot strip.

It is a condition of this easement that it shall not be filed for record and that all rights conveyed to the state of North Dakota and North Dakota Department of Transportation by this instrument shall terminate upon completion of construction of said project, or in five years from the date of conveyance, whichever comes first.

Said strip is shown on the plat as parcel 2-2 and contains 95 SF more or less, and is subject to any easements or rights of way previously acquired.

END OF DESCRIPTION.

The legal description was prepared by Lou Ann Gosbee, North Dakota Department of Transportation, 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700.

Parcel Number 2-3

A portion of Lot 6, Block 18, Harwood's 2nd Addition of Section 6, Township 139 N, Range 48 W, of the 5th Principal Meridian, County of Cass, State of North Dakota, described as follows and as shown on plat 2 of 2:

Commencing at the NW corner of section 6, thence easterly along the north line of section 6, N 87 deg. 25 min. 14 sec. E a distance of 1087.21 feet to a point on the survey centerline of US 81/10th St. N. Thence S 02 deg. 31 min. 40 sec. E along US 81/10th St. N a distance of 1166.87 feet to the beginning of a tangent curve, concave to the right (westerly), having a radius of 674.69 feet. Thence southerly along said curve 113.50 feet through a central angle of 09 deg. 38 min. 19 sec. to the end of the curve. Thence S 07 deg. 06 min. 39 sec. W a distance of 67.01 feet to the beginning of a tangent curve, concave to the left (easterly), having a radius of 674.69 feet. Thence southerly along said curve 54.34 feet through a central angle of 04 deg. 36 min. 53 sec. to a point on the curve. Thence S 87 deg. 13 min. 54 sec. E a distance of 32.24 feet to the point of beginning. Thence N 02 deg. 49 min. 38 sec. W along the existing easterly right of way of US 81/10th St. N a distance of 50.00 feet. Thence N 87 deg. 30 min. 40 sec. E along the existing southerly right of way of 10th Ave N a distance of 8.41 feet to a point on a non-tangent curve concave to the left (easterly) the radius point of which bears S 82 deg. 59 min. 43 sec. E a distance of 640.69 feet. Thence southerly along said curve 50.41 feet through a central angle of 04 deg. 30 min. 31 sec. to the end of the curve. Thence S 87 deg. 30 min. 40 sec. W along south line of Lot 6 a distance of 1.76 feet to the point of beginning.

Said parcel is shown on the plat as parcel 2-3 and contains 238 SF more or less, and is subject to any easements or rights of way previously acquired.

END OF DESCRIPTION.

The legal description was prepared by Lou Ann Gosbee, North Dakota Department of Transportation, 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700.

Parcel Number 2-4

A portion of Lot 6, Block 18, Harwood's 2nd Addition of Section 6, Township 139 N, Range 48 W, of the 5th Principal Meridian, County of Cass, State of North Dakota, described as follows and as shown on plat 2 of 2:

A strip of land 4 feet wide, the easterly and westerly lines of which are parallel. The westerly line of said strip being 34 feet easterly of and parallel with the following described centerline as surveyed.

Commencing at the NW corner of section 6, thence easterly along the north line of section 6, N 87 deg. 25 min. 14 sec. E a distance of 1087.21 feet to a point on the survey centerline of US 81/10th St. N. Thence S 02 deg. 31 min. 40 sec. E along US 81/10th St. N a distance of 1166.87 feet to the beginning of a tangent curve, concave to the right (westerly), having a radius of 674.69 feet. Thence southerly along said curve 113.50 feet through a central angle of 09 deg. 38 min. 19 sec. to the end of the curve. Thence S 07 deg. 06 min. 39 sec. W a distance of 67.01 feet to the beginning of a tangent curve, concave to the left (easterly) having a radius of 674.69 feet. Thence southerly along said curve 1.25 feet through a central angle of 00 deg. 06 min. 22 sec. to the beginning of the 4 foot strip. Thence continuing along said curve 53.09 feet through a central angle of 04 deg. 30 min. 31 sec. to the end of the 4 foot strip.

It is a condition of this easement that it shall not be filed for record and that all rights conveyed to the state of North Dakota and North Dakota Department of Transportation by this instrument shall terminate upon completion of construction of said project, or in five years from the date of conveyance, whichever comes first.

Said strip is shown on the plat as parcel 2-4 and contains 202 SF more or less, and is subject to any easements or rights of way previously acquired.

END OF DESCRIPTION.

The legal description was prepared by Lou Ann Gosbee, North Dakota Department of Transportation, 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700.

Parcel Number 2-5

A portion of the S 1/2 of Lot 6, Block 19, Harwood's 3rd Addition of Section 6, Township 139 N, Range 48 W, of the 5th Principal Meridian, County of Cass, State of North Dakota, described as follows and as shown on plat 2 of 2:

A strip of land 5 feet wide, the westerly and easterly lines of which are parallel. The easterly line of said strip being 35 feet westerly of and parallel with the following described centerline as surveyed.

Commencing at the intersection of US 81/10th St. N and 9th Ave N, thence northerly along the survey centerline of US 81/10th St. N, N 02 deg. 49 min. 38 sec. W a distance of 33.21 feet to the beginning of the 5 foot strip. Thence N 02 deg. 49 min. 38 sec. W a distance of 70.00 feet to the end of the 5 foot strip.

It is a condition of this easement that it shall not be filed for record and that all rights conveyed to the state of North Dakota and North Dakota Department of Transportation by this instrument shall terminate upon completion of construction of said project, or in five years from the date of conveyance, whichever comes first.

Said strip is shown on the plat as parcel 2-5 and contains 350 SF more or less, and is subject to any easements or rights of way previously acquired.

END OF DESCRIPTION.

The legal description was prepared by Lou Ann Gosbee, North Dakota Department of Transportation, 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700.



20-36 SAMPLE SUPPLEMENT WITH SPIRAL CURVES (PARCEL 1-1A)

PROJECT NO. SS-2-046(045)067
PCN. 19714
SUPPLEMENT TO PLAT NO. 1 OF 1

Parcel Number 1-1

A portion of the E 1/2 of the NE 1/4, north of ND 46, EXCEPTING 7 Acres, more or less, north of ND 46 and east of County Scenic Highway #13 (also known as 120 Ave. SE), Section 2, Township 136 N, Range 58 W, of the 5th Principal Meridian, County of Ransom, State of North Dakota, described as follows and as shown on plat 1 of 1:

Commencing at the SW corner of Section 31, Township 137 N, Range 57 W, thence easterly along the south line of Section 31, N 88 deg. 20 min. 27 sec. E a distance of 551.94 feet to the point of beginning. Thence N 88 deg. 20 min. 27 sec. E continuing along the south line of Section 31 a distance of 610.72 feet. Thence S 01 deg. 39 min. 33 sec. E along the east line of Section 2, Township 136 North, Range 58 West a distance of 170.18 feet. Thence S 74 deg. 24 min. 15 sec. W along the northerly right of way of ND 46 a distance of 629.42 feet. Thence N 01 deg. 37 min. 38 sec. W a distance of 321.78 feet to the point of beginning.

Said parcel is shown on the plat as parcel 1-1 and contains 3.45 Acres more or less, and is subject to any easements or rights of way previously acquired.

END OF DESCRIPTION.

The legal description was prepared by Lou Ann Gosbee, North Dakota Department of Transportation, 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700.

Parcel Number 1-2

A portion of the E 1/2 of the NE 1/4 of Section 2, Township 136 N, Range 58 W, of the 5th Principal Meridian, County of Ransom, State of North Dakota, described as follows and as shown on plat 1 of 1:

A strip of land 30 feet wide, the northerly and southerly lines of which are parallel. The northerly line of said strip being 130 feet southerly of and parallel with the following described centerline as surveyed. Together with a strip of land 60 feet wide, the northerly and southerly lines of which are parallel. The northerly line of said strip being 100 feet southerly of and parallel with the following described centerline as surveyed.

Commencing at the SW corner of Section 31, Township 137 N, Range 57 W, thence easterly along the south line of Section 31, N 88 deg. 20 min. 27 sec. E a distance of 1162.66 feet. Thence S 01 deg. 39 min. 33 sec. E a distance of 350.49 feet to a point on the survey centerline of ND 46, which is in Section 2, Township 136 N, Range 58 W. Thence S 74 deg. 24 min. 15 sec. W along the survey centerline of ND 46 a distance of 683.14 feet to the beginning of a 300 foot spiral curve, concave to the right (northerly). Thence westerly along the spiral curve, through a central angle of 04 deg. 29 min. 58 sec. to the beginning of the 30 foot strip, which is also the beginning of a simple curve having a radius of 1910.08 feet. Thence continuing southwesterly along the simple curve 133.71 feet through a central angle of 04 deg. 00 min. 40 sec. to the end of the 30 foot strip. This point is also the beginning of the 60 foot strip. Thence continuing along said curve 232.14 feet through a central angle of 06 deg. 57 min. 48 sec. to the end of the 60 foot strip, in which the west line of said strip is along the west line of Government Lot 1.

Said strip is shown on the plat as parcel 1-2 and contains 0.44 Acres more or less, and is subject to any easements or rights of way previously acquired.

END OF DESCRIPTION.

The legal description was prepared by Lou Ann Gosbee, North Dakota Department of Transportation, 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700.

Parcel Number 1-3

A portion of the E 1/2 of the NE 1/4 of Section 2, Township 136 N, Range 58 W, of the 5th Principal Meridian, County of Ransom, State of North Dakota, described as follows and as shown on plat 1 of 1:

A strip of land 70 feet wide, the northerly and southerly lines of which are parallel. The northerly line of said strip being 160 feet southerly of and parallel with the following described centerline as surveyed.

Commencing at the SW corner of section 31, Township 137 N, Range 57 W, thence easterly along the south line of Section 31, N 88 deg. 20 min. 27 sec. E a distance of 1162.66 feet. Thence S 01 deg. 39 min. 33 sec. E a distance of 350.49 feet to a point on the survey centerline of ND 46, which is in Section 2, Township 136 N, Range 58 W. Thence S 74 deg. 24 min. 15 sec. W along the survey centerline of ND 46 a distance of 269.60 feet to the beginning of the 70 foot strip. Thence S 74 deg. 24 min. 15 sec. W continuing along the survey centerline of ND 46 a distance of 413.54 feet to a 300 foot spiral curve. Thence continuing in a westerly direction along the spiral curve, through a central angle of 04 deg. 29 min. 58 sec. to a simple curve having a radius of 1910.08 feet. Thence continuing along said curve 365.85 feet through a central angle of 10 deg. 58 min. 27 sec. to the end of the 70 foot strip, in which the westerly end of said strip is along the west line of Government Lot 1.

It is a condition of this easement that it shall not be filed for record and that all rights conveyed to the state of North Dakota and North Dakota Department of Transportation by this instrument shall terminate upon completion of construction of said project, or in five years from the date of conveyance, whichever comes first.

Said strip is shown on the plat as parcel 1-3 and contains 1.81 Acres more or less, and is subject to any easements or rights of way previously acquired.

END OF DESCRIPTION.

The legal description was prepared by Lou Ann Gosbee, North Dakota Department of Transportation, 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700.

Parcel Number 1-4

A portion of the 7 ACRES, more or less, located in the NE 1/4, being all property lying north of ND 46 and East of County Scenic Highway #13 (also known as 120 Ave. SE), of Section 2, Township 136 N, Range 58 W, of the 5th Principal Meridian, County of Ransom, State of North Dakota, described as follows and as shown on plat 1 of 1:

Commencing at the SW corner of Section 31, Township 137 N, Range 57 W, which is also the point of beginning, thence easterly along the south line of section 31, N 88 deg. 20 min. 27 sec. E a distance of 551.94 feet. Thence S 01 deg. 37 min. 38 sec. E along a line that is located in Section 2, Township 136 N, Range 58 W, a distance of 321.78 feet to a point on a line that is 175 feet northwesterly of and parallel with the following describer survey centerline of ND 46: Thence S 74 deg. 24 min. 15 sec. W along the survey centerline a distance of 97.14 feet to the beginning of a 300.00 foot spiral curve, concave to the right (northerly). Thence westerly along the spiral curve, through a central angle of 04 deg. 29 min. 58 sec. to the end of the spiral and the parallel line. Thence S 11 deg. 05 min. 46 sec. E along the existing right of way of ND 46 a distance of 75.00 feet to a point on a non-tangent curve concave to the right (northerly) the radius point of which bears N 11 deg. 05 min. 46 sec. W a distance of 1610.08 feet. Thence westerly along said curve 349.33 feet through a central angle of 11 deg. 03 min. 27 sec. to the end of the curve. Thence N 01 deg. 37 min. 38 sec. W along the west line of Government Lot 1 a distance of 504.83 feet to a point on the south line of Section 36, Township 137 N, Range 58 W. Thence N 88 deg. 22 min. 22 sec. E along the south line of Section 36, Township 137 N, Range 57 W, a distance of 157.34 feet.

Said parcel is shown on the plat as parcel 1-4 and contains 7.00 Acres more or less, and is subject to any easements or rights of way previously acquired.

END OF DESCRIPTION.

The legal description was prepared by Lou Ann Gosbee, North Dakota Department of Transportation, 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700.

Parcel Number 1-5 (PERMANENT MAINTENANCE EASEMENT)

A portion of the E 1/2 of the NE 1/4 of Section 2, Township 136 N, Range 58 W, of the 5th Principal Meridian, County of Ransom, State of North Dakota, described as follows and as shown on plat 1 of 1:

A strip of land 30 feet wide, the northerly and southerly lines of which are parallel. The northerly line of said strip being 130 feet southerly of and parallel with the following described centerline as surveyed.

Commencing at the SW corner of Section 31, Township 137 N, Range 57 W, thence easterly along the south line of Section 31, N 88 deg. 20 min. 27 sec. E a distance of 1162.66 feet. Thence S 01 deg. 39 min. 33 sec. E a distance of 350.49 feet to a point on the survey centerline of ND 46, which is in Section 2, Township 136 N, Range 58 W. Thence S 74 deg. 24 min. 15 sec. W along the survey centerline of ND 46 a distance of 66.26 feet to the beginning of the 30 foot strip, in which the easterly end of said strip is along a line that is 33 feet westerly of and parallel with the east line of Section 2. Thence S 74 deg. 24 min. 15 sec. W a distance of 616.88 feet to the beginning of a 300.00 foot spiral curve, concave to the right (northerly). Thence southwesterly along the spiral curve, through a central angle of 04 deg. 29 min. 58 sec. to the end of the spiral curve, which is also the end of the 30 foot strip.

Said strip is shown on the plat as parcel 1-5 and contains 0.64 Acres more or less, and is subject to any easements or rights of way previously acquired.

END OF DESCRIPTION.

The legal description was prepared by Lou Ann Gosbee, North Dakota Department of Transportation, 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700.

