



Engineering Department

DATE: July 16, 2019

FROM: Gabe Schell, City Engineer

ITEM: Release of Storm Water Easement in Proposed Boulder Ridge Seventh Addition

REQUEST

Request approval to release existing easements from Boulder Ridge Seventh Addition contingent on approval of the plat.

Please place this item on the 7/23/2019 City Commission meeting agenda.

BACKGROUND INFORMATION

The proposed plat of Boulder Ridge Seventh Addition includes the dedication of public right of way by which the City can provide municipal water and sewer services and the platting of lots fully encumbered by stormwater and drainage easements for the purpose of stormwater conveyance. The City currently holds easements across portions of the currently unplatted property that would become Boulder Ridge Seventh Addition. The purpose of this request is to release specific recorded easements contingent upon approval of the plat. The existing easements release documents would be recorded just prior to the recordation of the plat (if approved) ensuring that the existing facilities that are either constructed or planned for construction within the existing easements are accommodated by the right of way or stormwater easements as dedicated in the plat. A list of the easements to be released as well as the original document are as follows:

Document 785979 – Storm Sewer, Sanitary Sewer & Watermain Easement. This easement is replaced by the platting of Mica Drive from its current terminus in Boulder Ridge Fifth Addition to its extension to 57th Avenue as part of Boulder Ridge Seventh Addition.

Document 785980 – Storm Water and Drainage Easement. This easement is replaced by Lot 2 Block 1 and a portion of Lot 2 Block 2 Boulder Ridge Seventh Addition.

Document 785981 – Storm Water and Drainage Easement. This easement is replaced by a portion of Lot 2 Block 2 and Lot 13 Block 5 Boulder Ridge Seventh Addition.

Document 851742 – Sanitary Sewer Easement. This easement is replaced by the platting of Calvert Drive from its current terminus in Sonnet Heights Subdivision to its extension to 57th Avenue as part of Boulder Ridge Seventh Addition.

The original easement documents are included as an attachment to this agenda item. Release documents to recorded would be created, signed by the Mayor, and recorded if this item is approved.

RECOMMENDED CITY COMMISSION ACTION

Approval of release of existing easement documents 785979, 785980, 785981 and 851742 in an area to be platted as Boulder Ridge Seventh Addition contingent on approval of the plat to be released prior to recordation of the Boulder Ridge Seventh Addition plat.

STAFF CONTACT INFORMATION

Gabe Schell, PE | City Engineer, 355-1505 or gschell@bismarcknd.gov

SANITARY SEWER EASEMENT

This indenture, made this 13th day of December, 2016, between **Five Guys Investment, LLP**, a North Dakota limited liability partnership, whose post office address is 4308 Boulder Ridge Rd, Bismarck, ND 58503-6128, Grantor, and the **City of Bismarck**, a municipal corporation, whose post office address is P.O. Box 5503, Bismarck, North Dakota 58506-5503, Grantee.

WHEREAS, Grantee desires to acquire a certain sanitary sewer easement (the "Easement") covering only a portion of the Grantor's real property located in the N½, Section 16, Township 139 North, Range 80 West of the 5th P.M., Burleigh County, North Dakota, and the location of which Easement is described below and depicted on Exhibit "A" ("Easement Area") which is attached hereto and made a part hereof.

NOW, THEREFORE,

1. For and in consideration of the sum of One Dollar (\$1.00), and other good and valuable consideration, the receipt of which is hereby acknowledged, Grantor grants to Grantee, its successors and assigns, a non-exclusive easement to construct, operate, maintain, and repair a public sanitary sewer under and across the Easement Area, together with the right to remove trees, brush, undergrowth, and other obstructions interfering with the location, construction, and maintenance of said sanitary sewer. Grantee shall have the right of ingress and egress across the Easement Area for the purposes herein granted. Grantor expressly reserves for itself and its successors and assigns, the right to use the Easement Area or to grant other easements or licenses at the same location so long as such uses do not unreasonably interfere with the rights herein granted.

2. This Easement and all rights of access are limited to the Easement Area described as follows:

A 30.00 foot wide tract of land lying in the North Half (N½) of Section 16, Township 139 North, Range 80 West of the Fifth Principal Meridian, Burleigh County, North Dakota, being more particularly described as follows:

A strip of land lying on and 15.00 feet on each side of the following described line:

Commencing at the northwest corner of Section 16; thence along the north line of said Section 16, S 89°56'10" E a distance of 2394.91 feet to the POINT OF BEGINNING; thence from said POINT OF BEGINNING, S 00°28'05" E a distance of 1022.81 feet; thence S 58°42'36" E a distance of 273.82 feet to the west boundary line of Sonnet Heights Subdivision, which is also the POINT OF TERMINATION.

The sidelines of said easement are to be prolonged or shortened to terminate on the west boundary line of Sonnet Heights Subdivision and the north line of Section 16.

Said Easement Area contains 38,892 square feet or 0.893 acres more or less.



851742

\$35.00
Page: 2 of 6
12/30/2016 9:35 AM
Burleigh County

3. Grantee shall give Grantor at least ninety (90) days' prior written notice of any proposed improvement, construction, or development of the Easement and the Easement Area for the development of the sanitary sewer system. Following receipt of the written notice from Grantee, the Grantor may elect to relocate the Easement and the Easement Area if in the sole opinion of Grantor the Easement and the Easement Area unreasonably interfere with the present or future use by Grantor of land owned by the Grantor adjacent and in close proximity to the Easement Area. The costs for such relocation shall be at the Grantor's sole cost and expense; provided, however, that Grantor shall provide to Grantee a substitute Easement Area reasonably suited to the Grantee's needs for the sanitary sewer at no cost to Grantee.
4. Grantee shall at all times maintain the Easement Area and the sanitary sewer Easement together with any and all improvements constructed or installed thereon by Grantee or associated with Grantee's use of the Easement Area for the sanitary sewer. The operation and maintenance of such improvements and of the Easement Area shall be at the Grantee's sole cost and expense.
5. This Easement is subject to all liens, encumbrances, covenants, conditions, restrictions, reservations, contracts, leases, and licenses, easements, and rights-of-way pertaining to the Easement Area whether or not of record. The use of the word "grant" shall not imply any warranty on the part of Grantor with respect to the Easement or the Easement Area.
6. Grantee shall comply with all applicable laws, ordinances, rules and regulations, including, but not limited to all applicable regulatory, environmental and safety requirements at Grantee's sole cost and expense.
7. Grantee shall not use, deposit, or permit the use or deposit of any hazardous material or toxic waste or other harmful substance on the Easement Area or on any other real property of Grantor located adjacent to in close proximity to the Easement Area.
8. Grantee shall not materially interfere with the use by and operation and activities of Grantor on Grantor's property, and the Grantee at all times shall use such routes and follow such procedures on Grantor's property within the Easement Area which will result in the least damage and inconvenience to Grantor.
9. Grantee shall be responsible for any damage to Grantor's property or that of third parties resulting from any exercise of the rights herein granted, including but not limited to soil erosion, or damage resulting therefrom. Grantee shall promptly repair and restore to its original condition any of Grantor's property, including, but not limited to, roads, utilities, and fences that may be altered, damaged, or destroyed in connection with the exercise of the Easement or the use of the Easement Area.
10. Grantee shall, after completing the above-described construction or installation, or after the exercise of any rights granted by this Easement, restore the Easement Area to

as near its original condition as reasonably possible and remove all debris, spoils, and equipment resulting from or used in connection with the construction or installation or access to the lands.

11. Grantor may terminate this Easement, the Easement Area, and all of the rights granted herein through a Plat of the land owned by Grantor, including the Easement Area, provided such a Plat is approved by the Grantee. In the event of such termination, the Easement shall be vacated through the recording of the approved Plat, and any and all interest in the Easement and Easement Area conveyed through this Easement shall automatically terminate.

12. This Easement contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any oral representation or modification concerning this Easement shall be of no further force or effect except as provided for in a subsequent modification in writing, signed by the party to be charged.

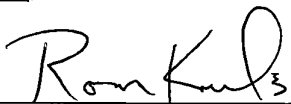
13. This Easement shall bind and insure to the benefit of the respective successors and assigns of the parties hereto.

14. Grantor and Grantee agree to not erect or permit any structure or obstruction other than fences, private drives, parking areas or driveways, and not to change the ground elevation without consent of the other party, or perform any act that interferes with each party's rights under this Easement within the Easement Area, except with the written consent of the other party.

15. Subject to any earlier termination as provided for herein, the term of this Easement herein reserved is ninety-nine (99) years, beginning upon execution in 2016 and ending in 2115.

16. Grantor hereby reserves title to and any interest in any and all archeological and paleontological materials, whether located on or below the surface of the Easement Area.

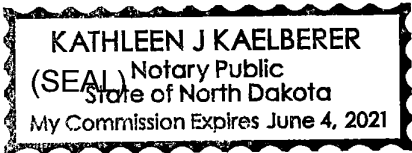
Dated this 16 day of November, 2016.



RONALD KNUTSON, Partner
Five Guys Investment, LLP

STATE OF NORTH DAKOTA)
) SS
COUNTY OF BURLEIGH)

On this 16 day of November 2016, before me personally appeared Ronald Kaelberer, known to me to be a Partner of Five Guys Investment, LLP, the limited liability partnership that is described in and that executed the within and foregoing instrument and acknowledged to me that such limited liability partnership executed the same.



Kathleen J Kaelberer
Notary Public
My commission expires: June 4, 2021

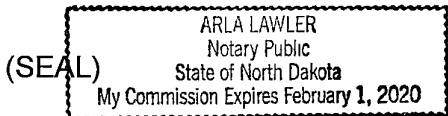
Acceptance of dedicated lands by the City of Bismarck:

Michael C. Seminary
President, Board City Commissioners

Attest: Keith J. Hunke
City Administrator

STATE OF NORTH DAKOTA)
) SS
COUNTY OF BURLEIGH)

On this 23rd day of December 2016, before me personally appeared Michael C. Seminary, President of Board of City Commissioners, and Keith J. Hunke, City Administrator, known to me to be the persons who are described in, and who executed the within and foregoing instrument and who severally acknowledged to me that they executed the same.

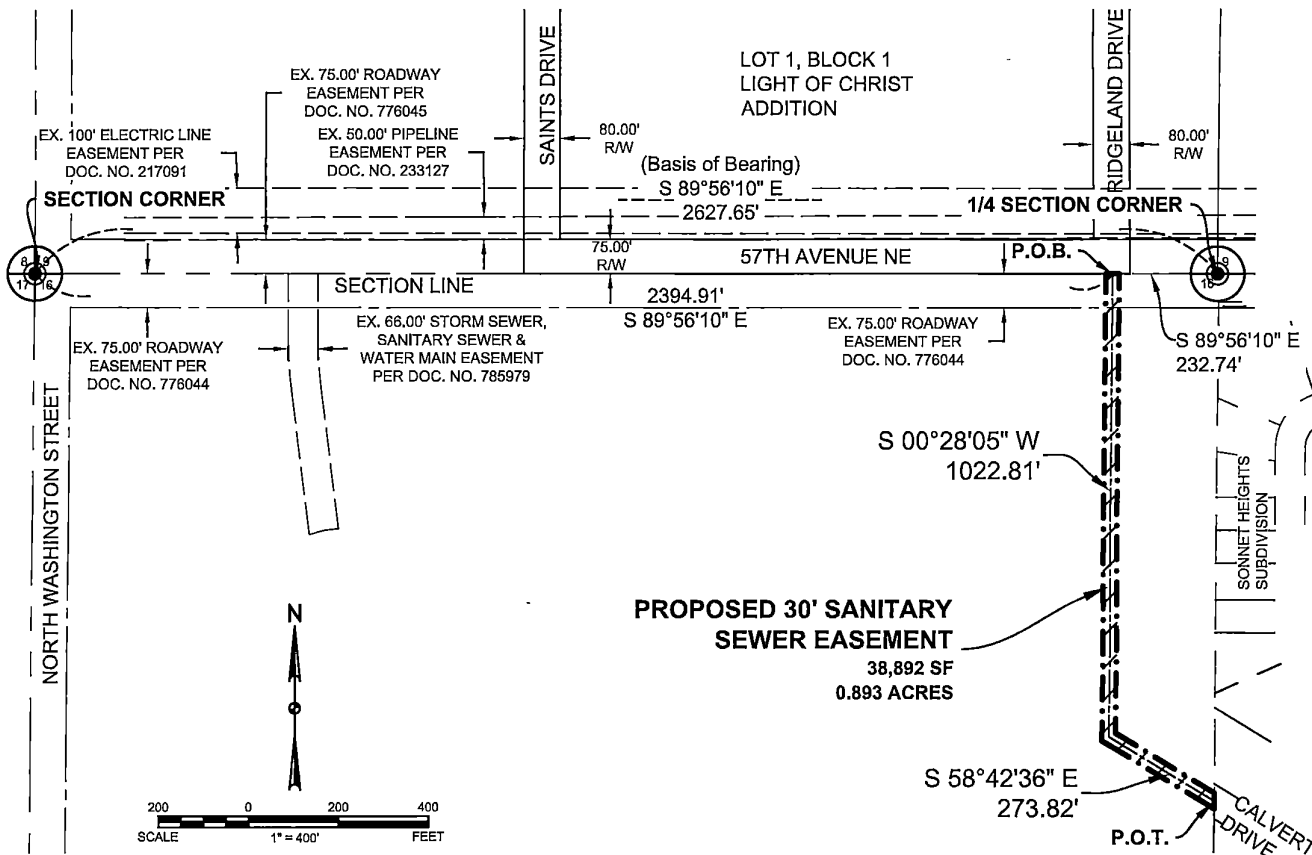


Arla Lawler
Notary Public
My commission expires: February 1, 2020

The legal description was prepared by Kent Orvik, PLS, KLJ, 4585 Coleman Street, Bismarck, North Dakota 58503 or obtained from a previously recorded instrument.
Burleigh County Recorder

SANITARY SEWER EASEMENT


A tract of land lying in the N 1/2 of Section 16, Township 139 North, Range 80 West of the Fifth Principal Meridian, Burleigh County, North Dakota



Note: Said tract of land is subject to any easement, restrictions or reservations, either existing or of record.

Bearings and distances may vary from previous plats due to different methods of measurements.

LEGEND

- Rebar and Cap Illegible Found
-  Proposed 30' Sanitary Sewer Easement

LEGAL DESCRIPTION

A 30.00 foot wide tract of land lying in the North Half of Section 16, Township 139 North, Range 80 West of the Fifth Principal Meridian, Burleigh County, North Dakota, being more particularly described as follows:

A strip of land lying on and 15.00 feet on each side of the following described line:

Commencing at the northwest corner of Section 16; thence along the north line of said Section 16, S 89°56'10" E a distance of 2394.91 feet to the POINT OF BEGINNING; thence from said POINT OF BEGINNING, S 00°28'05" E a distance of 1022.81 feet; thence S 58°42'36" E a distance of 273.82 feet to the west boundary line of Sonnet Heights Subdivision, which is also the POINT OF TERMINATION.

The sidelines of said easement are to be prolonged or shortened to terminate on the west boundary line of Sonnet Heights Subdivision and the north line of Section 16.

Said easement contains 38,892 square feet or 0.893 acres more or less.





LIGHT OF CHRIST CATHOLIC SCHOOLS

ESMT

Debbie Groves

851742

\$35.00
Page. 6 of 6
12/30/2016 9:35 AM
Burleigh County

Storm Water and Drainage Easement

Know all men by these presents, that we the undersigned, Five Guys Investment, LLP, being the owner of the property described below, for good and valuable consideration the receipt of which is acknowledged do hereby grant and City of Bismarck, a municipal corporation, its successors and assigns, hereinafter called the Grantee, an easement limited to 99 years by statute, to construct, operation, maintain and repair a "Storm Water and Drainage Easement" to run with the land for the purpose of storm sewer and surface water drainage under, over, through and/or across the lands described below for the purpose of construction, reconstruction, repair, enlarging and maintaining storm water management facilities together with necessary appurtenances thereto for storm water, storm sewer and surface water drainage and management of said storm water flow in a manner that will permit the free and unobstructed flow of water under, over and/or across the easement area.

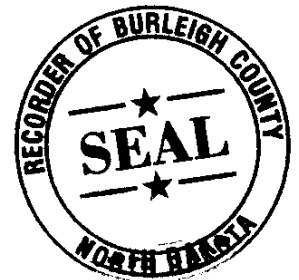
The real property affected by the grant of this easement is located in the County of Burleigh, State of North Dakota as shown on the attached map titled "Storm Water Easement Exhibit" dated March 11, 2013 and is described as follows:

Description:


A PORTION OF THE NW1/4 OF SECTION 16, TOWNSHIP 139 NORTH, RANGE 80 WEST, OF THE FIFTH PRINCIPAL MERIDIAN, BURLEIGH COUNTY, NORTH DAKOTA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 16; THENCE NORTH 00 DEGREES 26 MINUTES 38 SECONDS EAST, ALONG THE EAST LINE OF SAID NORTHWEST QUARTER OF SECTION 16, A DISTANCE OF 989.78 FEET TO THE POINT OF BEGINNING; THENCE NORTH 50 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 395.14 FEET; THENCE NORTH 30 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 394.28 FEET; THENCE NORTH 85 DEGREES 17 MINUTES 24 SECONDS WEST, A DISTANCE OF 123.19 FEET; THENCE SOUTH 65 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 111.46 FEET; THENCE SOUTH 39 DEGREES 45 MINUTES 43 SECONDS WEST, A DISTANCE OF 66.87 FEET; THENCE SOUTH 30 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 157.24 FEET; THENCE SOUTH 84 DEGREES 19 MINUTES 21 SECONDS WEST, A DISTANCE OF 139.90 FEET; THENCE NORTH 65 DEGREES 28 MINUTES 11 SECONDS WEST, A DISTANCE OF 137.91 FEET TO THE NORTHEAST BOUNDARY LINE OF BOULDER RIDGE 5TH EXTENDED SOUTHEASTERLY; THENCE NORTH 45 DEGREES 00 MINUTES 00 SECONDS WEST, ALONG SAID NORTHEAST BOUNDARY LINE AND ITS SOUTHEASTERLY EXTENSION, A DISTANCE OF 973.32 FEET; THENCE NORTH 25 DEGREES 48 MINUTES 58 SECONDS WEST, A DISTANCE OF 109.84 FEET; THENCE NORTH 56 DEGREES 08 MINUTES 29 SECONDS EAST, A DISTANCE OF 91.92 FEET; THENCE SOUTH 40 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 463.92 FEET; THENCE SOUTH 55 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 607.74 FEET; THENCE NORTH 59 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 130.92 FEET; THENCE NORTH 77 DEGREES 09 MINUTES 37 SECONDS EAST, A DISTANCE OF 74.86 FEET; THENCE NORTH 59 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 127.11 FEET; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 300.15 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 96.89 FEET; THENCE SOUTH 36 DEGREES 47 MINUTES 59 SECONDS EAST, A DISTANCE OF 243.28 FEET; THENCE SOUTH 60 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 271.88 FEET TO THE EAST LINE OF SAID NORTHWEST QUARTER OF SECTION 16; THENCE SOUTH 00 DEGREES 26 MINUTES 38 SECONDS WEST, ALONG SAID EAST LINE, A DISTANCE OF 270.57 FEET TO THE POINT OF BEGINNING. THE ABOVE DESCRIBED TRACT CONTAINS 7.62 ACRES, MORE OR LESS.

Description prepared by:
Dayne Solem PLS 8423
Swenson, Hagen & Co. P.C.
909 Basin Avenue
Bismarck, ND 58504
(See attached exhibit)



In Witness Whereof, this instrument is executed by the undersigned on the 9th day of ~~March~~ APRIL, 2013.




Five Guys Investment, LLP
RON KNUTSON, Partner

STATE OF NORTH DAKOTA)
) ss
COUNTY OF BURLEIGH)

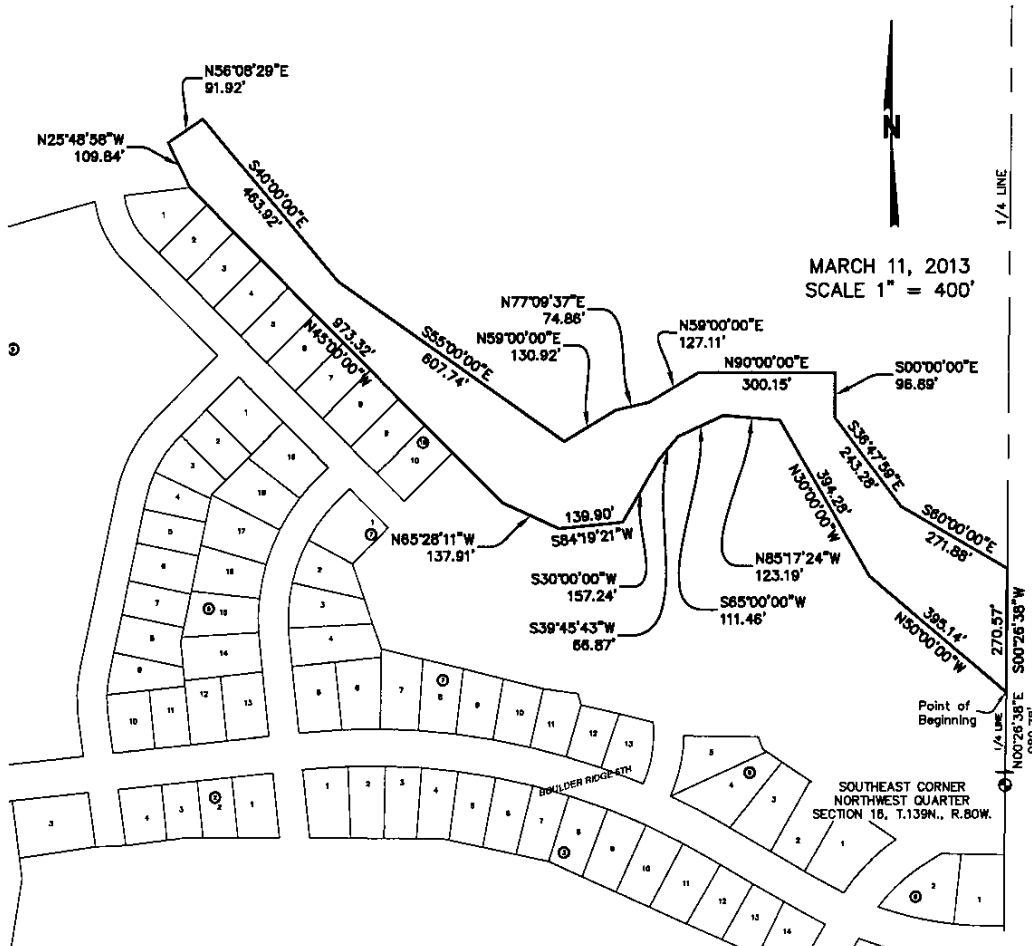
On this 9th day of ~~March~~ APRIL, 2013, before me personally appeared RON KNUTSON, known to me to be the Partner who executed the within instrument, and acknowledged to me that he executed the same.

DAVID PATIENCE
Notary Public
State of North Dakota
My Commission Expires Aug. 24, 2016



DAVID PATIENCE, Notary Public
Burleigh County, North Dakota
My Commission Expires: Aug 24, 2016

STORM WATER EASEMENT EXHIBIT

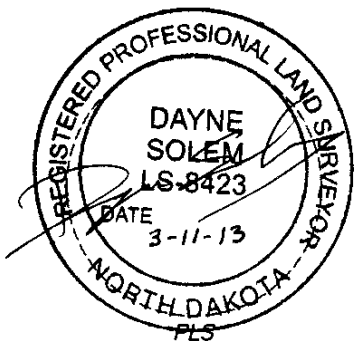


STORM WATER EASEMENT

A PORTION OF THE NW 1/4 OF SECTION 16, TOWNSHIP 139 NORTH, RANGE 80 WEST, OF THE FIFTH PRINCIPAL MERIDIAN, BURLEIGH COUNTY, NORTH DAKOTA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 16; THENCE NORTH 00 DEGREES 26 MINUTES 38 SECONDS EAST, ALONG THE EAST LINE OF SAID NORTHWEST QUARTER OF SECTION 16, A DISTANCE OF 989.78 FEET TO THE POINT OF BEGINNING; THENCE NORTH 50 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 395.14 FEET; THENCE NORTH 30 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 394.28 FEET; THENCE NORTH 85 DEGREES 17 MINUTES 24 SECONDS WEST, A DISTANCE OF 123.19 FEET; THENCE SOUTH 65 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 111.46 FEET; THENCE SOUTH 39 DEGREES 45 MINUTES 43 SECONDS WEST, A DISTANCE OF 66.87 FEET; THENCE SOUTH 30 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 157.24 FEET; THENCE SOUTH 84 DEGREES 19 MINUTES 21 SECONDS WEST, A DISTANCE OF 139.90 FEET; THENCE NORTH 65 DEGREES 28 MINUTES 11 SECONDS WEST, A DISTANCE OF 137.91 FEET TO THE NORTHEASTERLY BOUNDARY LINE OF BOULDER RIDGE 5TH EXTENDED SOUTHEASTERLY; THENCE NORTH 45 DEGREES 00 MINUTES 00 SECONDS WEST, ALONG SAID NORTHEASTERLY BOUNDARY LINE AND ITS SOUTHEASTERLY EXTENSION, A DISTANCE OF 973.32 FEET; THENCE NORTH 25 DEGREES 48 MINUTES 58 SECONDS WEST, A DISTANCE OF 109.84 FEET; THENCE NORTH 56 DEGREES 08 MINUTES 29 SECONDS EAST, A DISTANCE OF 91.92 FEET; THENCE SOUTH 40 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 463.92 FEET; THENCE SOUTH 55 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 607.74 FEET; THENCE NORTH 59 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 130.92 FEET; THENCE NORTH 77 DEGREES 09 MINUTES 37 SECONDS EAST, A DISTANCE OF 74.86 FEET; THENCE NORTH 59 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 127.11 FEET; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 300.15 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 96.89 FEET; THENCE SOUTH 36 DEGREES 47 MINUTES 59 SECONDS EAST, A DISTANCE OF 243.28 FEET; THENCE SOUTH 60 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 271.88 FEET TO THE EAST LINE OF SAID NORTHWEST QUARTER OF SECTION 16; THENCE SOUTH 00 DEGREES 26 MINUTES 38 SECONDS WEST, ALONG SAID EAST LINE, A DISTANCE OF 270.57 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 7.62 ACRES., MORE OR LESS.



SWENSON, HAGEN & COMPANY P.C.

Surveying
 Hydrology
 Land Planning
 Civil Engineering
 Landscape & Site Design
 Construction Management

909 Basin Avenue
 Bismarck, North Dakota 58504
 sheng@swensonhagen.com
 Phone (701) 223 - 2600
 Fax (701) 223 - 2606

Storm Water and Drainage Easement

Know all men by these presents, that we the undersigned, Five Guys Investment, LLP, being the owner of the property described below, for good and valuable consideration the receipt of which is acknowledged do hereby grant and City of Bismarck, a municipal corporation, its successors and assigns, hereinafter called the Grantee, an easement limited to 99 years by statute, to construct, operation, maintain and repair a "Storm Water and Drainage Easement" to run with the land for the purpose of storm sewer and surface water drainage under, over, through and/or across the lands described below for the purpose of construction, reconstruction, repair, enlarging and maintaining storm water management facilities together with necessary appurtenances thereto for storm water, storm sewer and surface water drainage and management of said storm water flow in a manner that will permit the free and unobstructed flow of water under, over and/or across the easement area.

The real property affected by the grant of this easement is located in the County of Burleigh, State of North Dakota as shown on the attached map titled "Storm Water Easement Exhibit" dated April 5, 2013 and is described as follows:

A PORTION OF THE NW1/4 OF SECTION 16, TOWNSHIP 139 NORTH, RANGE 80 WEST, OF THE FIFTH PRINCIPAL MERIDIAN, BURLEIGH COUNTY, NORTH DAKOTA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 16; THENCE SOUTH 00 DEGREES 32 MINUTES 25 SECONDS WEST, ALONG THE WEST LINE OF SAID SECTION 16, A DISTANCE OF 189.12 FEET; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 75.01 FEET TO A POINT ON A LINE LYING 75.00 FEET EAST AND PARALLEL WITH THE WEST LINE OF SAID SECTION 16, SAID POINT BEING THE POINT OF BEGINNING; THENCE SOUTH 66 DEGREES 31 MINUTES 59 SECONDS EAST, A DISTANCE OF 55.70 FEET; THENCE NORTH 87 DEGREES 02 MINUTES 45 SECONDS EAST, A DISTANCE OF 507.23 FEET; THENCE SOUTH 14 DEGREES 15 MINUTES 02 SECONDS EAST, A DISTANCE OF 63.94 FEET; THENCE SOUTH 73 DEGREES 10 MINUTES 53 SECONDS EAST, A DISTANCE OF 50.19 FEET; THENCE SOUTH 48 DEGREES 11 MINUTES 38 SECONDS EAST, A DISTANCE OF 205.25 FEET; THENCE SOUTH 56 DEGREES 08 MINUTES 29 SECONDS WEST, A DISTANCE OF 91.92 FEET; THENCE SOUTH 25 DEGREES 48 MINUTES 58 SECONDS EAST, A DISTANCE OF 83.68 FEET; THENCE NORTH 67 DEGREES 27 MINUTES 45 SECONDS WEST, A DISTANCE OF 51.37 FEET; THENCE SOUTH 70 DEGREES 16 MINUTES 19 SECONDS WEST, A DISTANCE OF 24.54 FEET; THENCE NORTH 35 DEGREES 37 MINUTES 34 SECONDS WEST, A DISTANCE OF 67.54 FEET; THENCE SOUTH 83 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 36.00 FEET; THENCE NORTH 07 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 56.81 FEET; THENCE SOUTH 79 DEGREES 17 MINUTES 01 SECOND WEST, A DISTANCE OF 553.77 FEET; THENCE SOUTH 29 DEGREES 08 MINUTES 51 SECONDS WEST, A DISTANCE OF 85.42 FEET TO A POINT ON SAID LINE BEING 75.00 FEET EAST AND PARALLEL WITH THE WEST LINE OF SECTION 16; THENCE NORTH 00 DEGREES 32 MINUTES 25 SECONDS EAST, A DISTANCE OF 395.19 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 4.21 ACRES, MORE OR LESS.

Description prepared by Trenton Hintz; Swenson, Hagen & Co. P.C.; 909 Basin Avenue, Bismarck, ND 58504. (See attached exhibit)

In Witness Whereof, this instrument is executed by the undersigned on the 9th day of April, 2013.

Ron Knutson
Five Guys Investment LLP
Ron Knutson, Partner

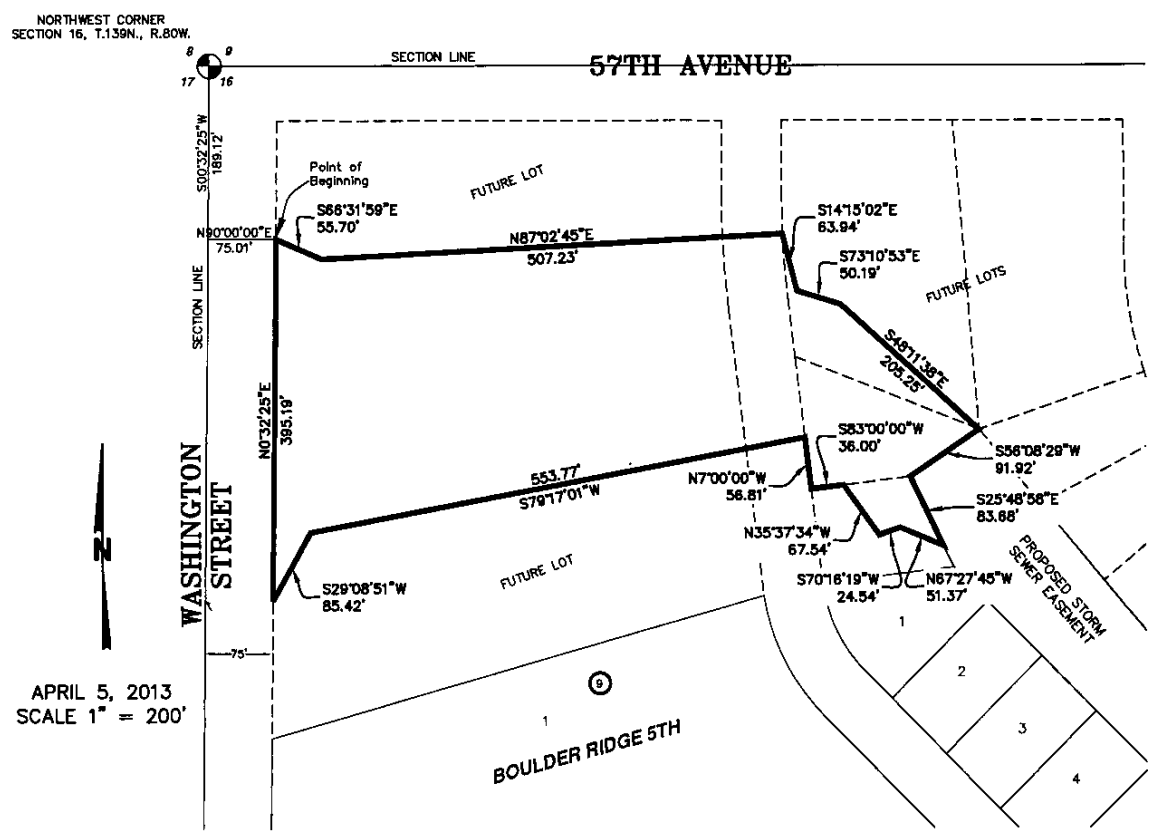
STATE OF NORTH DAKOTA)
) ss
COUNTY OF BURLEIGH)

On this 9th day of April, 2013, before me personally appeared Ron Knutson, known to me to be the Partner who executed the within instrument, and acknowledged to me that he executed the same.

DAVID PATIENCE
Notary Public
State of North Dakota
My Commission Expires Aug. 24, 2016

David Patience, Notary Public
Burleigh County, North Dakota
My Commission Expires: Aug 24 2016

STORM WATER EASEMENT EXHIBIT

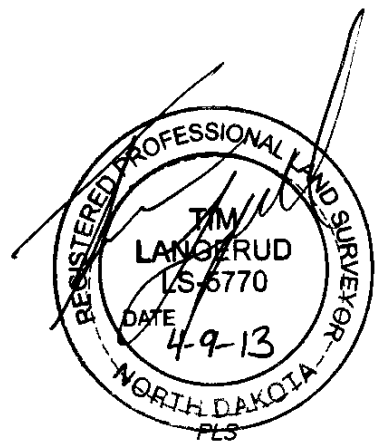


STORM WATER EASEMENT

A PORTION OF THE NW1/4 OF SECTION 16, TOWNSHIP 139 NORTH, RANGE 80 WEST, OF THE FIFTH PRINCIPAL MERIDIAN, BURLEIGH COUNTY, NORTH DAKOTA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 16; THENCE SOUTH 00 DEGREES 32 MINUTES 25 SECONDS WEST, ALONG THE WEST LINE OF SAID SECTION 16, A DISTANCE OF 189.12 FEET; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 75.01 FEET TO A POINT ON A LINE LYING 75.00 FEET EAST AND PARALLEL WITH THE WEST LINE OF SAID SECTION 16, SAID POINT BEING THE POINT OF BEGINNING; THENCE SOUTH 66 DEGREES 31 MINUTES 59 SECONDS EAST, A DISTANCE OF 55.70 FEET; THENCE NORTH 87 DEGREES 02 MINUTES 45 SECONDS EAST, A DISTANCE OF 507.23 FEET; THENCE SOUTH 14 DEGREES 15 MINUTES 02 SECONDS EAST, A DISTANCE OF 63.94 FEET; THENCE SOUTH 73 DEGREES 10 MINUTES 53 SECONDS EAST, A DISTANCE OF 50.19 FEET; THENCE SOUTH 48 DEGREES 11 MINUTES 38 SECONDS EAST, A DISTANCE OF 205.25 FEET; THENCE SOUTH 56 DEGREES 08 MINUTES 29 SECONDS WEST, A DISTANCE OF 91.92 FEET; THENCE SOUTH 25 DEGREES 48 MINUTES 58 SECONDS EAST, A DISTANCE OF 83.68 FEET; THENCE NORTH 67 DEGREES 27 MINUTES 45 SECONDS WEST, A DISTANCE OF 51.37 FEET; THENCE SOUTH 70 DEGREES 16 MINUTES 19 SECONDS WEST, A DISTANCE OF 24.54 FEET; THENCE NORTH 35 DEGREES 37 MINUTES 34 SECONDS WEST, A DISTANCE OF 67.54 FEET; THENCE SOUTH 83 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 36.00 FEET; THENCE NORTH 07 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 56.81 FEET; THENCE SOUTH 79 DEGREES 17 MINUTES 01 SECOND WEST, A DISTANCE OF 553.77 FEET; THENCE SOUTH 29 DEGREES 08 MINUTES 51 SECONDS WEST, A DISTANCE OF 85.42 FEET TO A POINT ON SAID LINE BEING 75.00 FEET EAST AND PARALLEL WITH THE WEST LINE OF SECTION 16; THENCE NORTH 00 DEGREES 32 MINUTES 25 SECONDS EAST, A DISTANCE OF 395.19 FEET TO THE POINT OF BEGINNING.

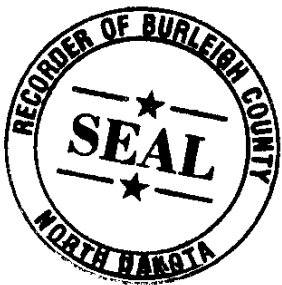
THE ABOVE DESCRIBED TRACT CONTAINS 4.21 ACRES, MORE OR LESS.



SWENSON, HAGEN & COMPANY P.C.

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Surveying
 Hydrology
 Land Planning
 Civil Engineering
 Landscape & Site Design
 Construction Management



Melissa Hanson, Deputy

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Page: 3 of 3
4/23/2013 4:03 PM
Burleigh County

STORM SEWER, SANITARY SEWER & WATERMAIN EASEMENT

Know all men by these presents, that we the undersigned, Five Guys Investment, LLP, being the owner of the property described below, for good and valuable consideration the receipt of which is acknowledged do hereby grant and give unto the City of Bismarck, North Dakota, an easement for storm sewer, sanitary sewer, watermain and related appurtenances to be constructed and maintained by the City of Bismarck on and under the lands described below.

A PORTION OF THE NW1/4 OF SECTION 16, TOWNSHIP 139 NORTH, RANGE 80 WEST, OF THE FIFTH PRINCIPAL MERIDIAN, BURLEIGH COUNTY, NORTH DAKOTA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 16; THENCE SOUTH 89 DEGREES 54 MINUTES 06 SECONDS EAST, ALONG THE NORTH LINE OF SAID SECTION 16, A DISTANCE OF 563.86 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 140.18 FEET; THENCE SOUTH AND TO THE LEFT, ON A 1033.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 126.20 FEET; THENCE SOUTH 07 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 309.60 FEET; THENCE SOUTH AND TO THE LEFT, ON A 233.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 5.22 FEET TO THE NORTHERLY LINE OF BOULDER RIDGE 5TH ADDITION; THENCE NORTH 74 DEGREES 00 MINUTES 00 SECONDS EAST, ALONG SAID NORTHERLY LINE, A DISTANCE OF 33.35 FEET; THENCE NORTH 83 DEGREES 00 MINUTES 00 SECONDS EAST, CONTINUING ALONG SAID NORTHERLY LINE, A DISTANCE OF 33.00 FEET; THENCE NORTH 07 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 309.60 FEET; THENCE NORTH AND TO THE RIGHT, ON A 967.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 118.14 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 140.06 FEET TO THE NORTH LINE OF SAID SECTION 16; THENCE NORTH 89 DEGREES 54 MINUTES 06 SECONDS WEST, ALONG SAID NORTH LINE, A DISTANCE OF 66.00 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 0.87 ACRES, MORE OR LESS.

Description prepared by Trenton Hintz; Swenson, Hagen & Co. P.C.; 909 Basin Ave, Bismarck, ND 58504. (See attached exhibit)

And we grant and give unto the City of Bismarck full power and right to enter upon said land as described for the purpose of constructing and maintaining said storm sewer, sanitary sewer, watermain and related appurtenances, together with access thereto for the purpose of maintaining, servicing and repairing said storm sewer, sanitary sewer, watermain and related appurtenances, with such adjacent land as may be necessary for such purposes, they agree, however, to save the undersigned and their heirs and assigns, harmless from all damages that may result from such construction and maintenance of said storm sewer, sanitary sewer, watermain and related appurtenances.

In witness whereof, this instrument is executed by the undersigned on this 17th day of April, 2013.

Jack Knutsen
Five Guys Investment, LLP
Partner

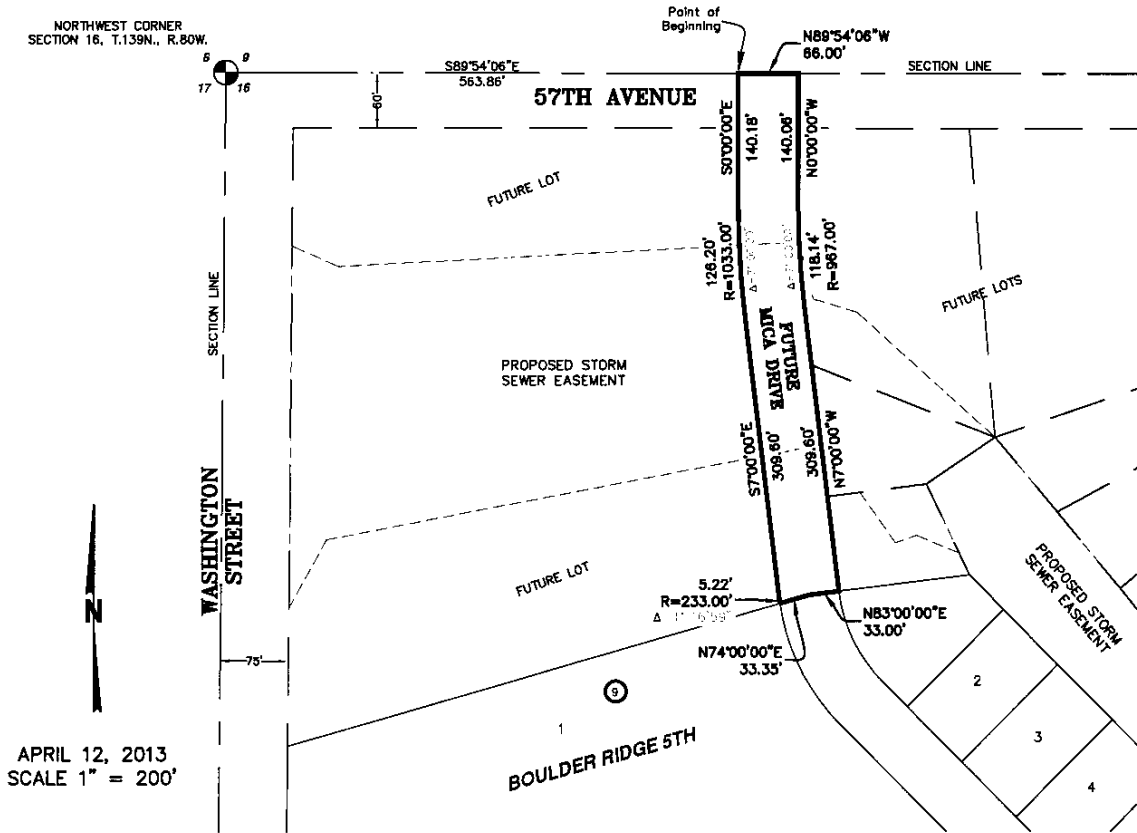
STATE OF NORTH DAKOTA)
)ss
COUNTY OF BURLEIGH)

On this 17th day of April, 2013 before me personally appeared Jack Knutsen, known to me to be the individual who executed the within and foregoing instrument and who acknowledged to me that he executed the same.

DAVID PATIENCE
Notary Public
State of North Dakota
My Commission Expires Aug. 24, 2016

David Patience
Notary Public

STORM SEWER, SANITARY SEWER & WATERMAIN EASEMENT EXHIBIT

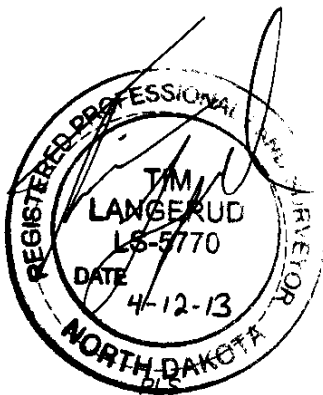


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Page: 2 of 3
4/23/2013 4:03 PM
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SWENSON & HAGEN

ESMT

Melissa Johnson, Deputy

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Page: 3 of 3
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