

**NOTICE OF REGULAR COUNCIL MEETING  
CUMMING CITY COUNCIL  
July 24, 2023 – 6:00 p.m.  
Cumming City Hall, 649 N. 44<sup>th</sup> St., Cumming, IA\***

**ROLL CALL**

**APPROVAL OF AGENDA** as presented and/or amended

**PUBLIC COMMENT**

**PUBLIC HEARING**

**CONSENT ITEMS**

- A. Minutes from July 10, 2023 Regular Meeting
- B. Iowa Distilling Event Liquor License Application for August 26, 2023
- C. Cumming Tap Event Liquor License Application for August 26, 2023
- D. Street Use Permit Application for August 26, 2023 for Cumming Tap/Iowa Distilling Company
- E. Payment of Bills
- F. June Fund Balance Report
- G. June Profit & Loss by Fund
- H. Resolution No. 2023-46 Set Date for Public Hearing for Rezoning of Property from A-1 to PUD (Planned Unit Development)
- I. Park & Recreation Board Meeting Minutes July 11, 2023

**BUSINESS ITEMS**

- A. Resolution No. 2023-47 Middlebrook West Final Plat
- B. Resolution No. 2023-48 Calling a Special Election for Hotel-Motel Tax in the City of Cumming
- C. Resolution No. 2023-49 Proposal from Braun Intertec for Limited Phase II Environmental Analysis for the Cumming Old Town Sanitary Sewer Project
- D. Resolution No. 2023-50 Agreement with Veenstra& Kimm, Inc for Professional Design Services for the Cumming Avenue South Trail Extension
- E. Resolution No. 2023-51 Change Order No. 4 Cumming Avenue Lane Widening and Paving Project
- F. Resolution No. 2023-52 Payment Application No. 2 Cumming Avenue Lane Widening and Paving Project

**INFORMATIONAL ITEMS**

- A. Current Capital Improvement Program (CIP) Review

**REPORTS:**

A. Mayor B. Council C. Attorney D. City Administrator E. City Clerk

**ADJOURN**

\*The City of Cumming welcomes public participation. If unable to attend this meeting in person, online and phone participation are available below. For questions, please contact City Hall at 649 N 44<sup>th</sup> Street, 515-981-9214 or email at [nonstot@cumming.iowa.gov](mailto:nonstot@cumming.iowa.gov) or [rconner@cumming.iowa.gov](mailto:rconner@cumming.iowa.gov).

Join Zoom Meeting  
<https://us02web.zoom.us/j/2382663968>  
Meeting ID: 238 266 3968  
By phone  
646-931-3860 (2382663968#)

**OFFICIAL PUBLICATION  
CITY OF CUMMING  
Regular Council Meeting 7/10/2023  
To be Approved at 7/24/2023 Meeting**

The Regular City Council Meeting of the City of Cumming was held at Cumming City Hall 649 N. 44<sup>th</sup> St. on Monday, July 10, 2023. The Meeting was called to Order at 6:00 P.M. by Mayor Brent Highfill. Present at Roll Call: Councilmembers Charlie Ochanpaugh, Kathie Hungerford, Thomas Cackler, Larry “Dino” Good and Martin Squier. Motion made by Ochanpaugh, Seconded by Cackler to Approve the - Agenda. Approved 5-0

**Public Comment:** None

**Public Hearings**

- A. Motion by Squier, and seconded by Goode to open the **Public Hearing:** Disposal/Vacation of City Owned Right of Way at 6:02 pm, approved 5-0, AIF vote. No written or oral comments were received. Motion by Ochanpaugh, seconded by Cackler to close the public hearing at 6:03 pm. Approved 5-0, AIF vote.

**Consent Items**

Motion made by Hungerford, Seconded by Squier to Approve Consent Items: Claims. Consent agenda items approved 5-0.

**Claims:**

Type	Date	Num	Name	Memo	Amount
Check	07/07/2023		Conner, Rita	Health Reimbursement June 2023	-604.32
Check	07/07/2023		Conner, Rita	Health Reimbursement July 2023	-604.32
Paycheck	07/07/2023		Conner, Rita		-2,199.57
Check	07/07/2023		City of Des Moines	WRA Invoice #130433	-2,989.80
Check	07/07/2023		Midamerican Energy	INV Dated May 2023-Summary Bill #10590-67114	-825.54
Paycheck	07/07/2023		Squier, Martin		-496.91
Check	07/11/2023		Combined Systems ...	Invoice #160007	-14.70
Check	07/11/2023		Waste Solutions of I...	Inv. #62665 Dated 5.29.23	-120.00
Check	07/11/2023		Mid-Iowa Planning A...	MIPA Membership	-66.00
Check	07/11/2023		Record Herald	Newspaper	-60.00
Check	07/11/2023		Waste Connections	INV 350801T071Billing Period 5.1.2023-5.31.2023 including ...	-3,361.96
Paycheck	07/11/2023		Conner, Rita		-2,199.57
Paycheck	07/11/2023		Onstot, Nichole		-506.21
Paycheck	07/11/2023		Highfill, Brent		-807.81
Paycheck	07/11/2023		Hungerford, Kathie		-484.37
Paycheck	07/11/2023		Ochanpaugh, Charlie		-346.31
Paycheck	07/11/2023		Goode Jr, Larry		-437.35
Paycheck	07/11/2023		Cackler, Thomas		-346.31
<b>Total</b>					<b>-16,471.05</b>

**Business Items**

- A. Ordinance No. 2023-01 On Vacation of City-Owned Right of way
1. Motion to waive second and third readings of Ordinance No. 2023-01, Motion by Goode, Seconded by Ochanpaugh, Approved 5-0, Roll Call (RC) vote.
  2. Motion by Hungerford, seconded by Cackler to approve Deed and Legal Fees to be paid by Hy-Vee.

**Adjourn:**

Motion by Cackler and seconded by Squier to adjourn the meeting at 7:08PM. Approved 5-0.

NEXT CITY COUNCIL MEETING: July 24, 2023, 6:00 pm at City Hall.

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Brent Highfill, Mayor

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Attest: Nichole Onstot, City Clerk



# State of Iowa

Alcoholic Beverages Division

## Applicant

NAME OF LEGAL ENTITY	NAME OF BUSINESS(DBA)	BUSINESS		
Dunkel Corporation	Iowa Distilling Company	(515) 981-4216		
ADDRESS OF PREMISES	PREMISES SUITE/APT NUMBER	CITY	COUNTY	ZIP
4349 Cumming Avenue		Cumming	Warren	50061
MAILING ADDRESS	CITY	STATE	ZIP	
4349 Cumming Ave	Cumming	Iowa	50061	

## Contact Person

NAME	PHONE	EMAIL
Kyle Doyle	(515) 971-6774	kdoyle@iowadistilling.com

## License Information

LICENSE NUMBER	LICENSE/PERMIT TYPE	TERM	STATUS
LC0049202	Class C Retail Alcohol License	12 Month	Submitted to Local Authority

TENTATIVE EFFECTIVE DATE	TENTATIVE EXPIRATION DATE	LAST DAY OF BUSINESS
Jan 1, 2023	Dec 31, 2023	

### SUB-PERMITS

Class C Retail Alcohol License



# State of Iowa

Alcoholic Beverages Division

## PRIVILEGES

Outdoor Service

## Status of Business

### BUSINESS TYPE

Corporation

## Ownership

No Ownership information found

## Insurance Company Information

INSURANCE COMPANY	POLICY EFFECTIVE DATE	POLICY EXPIRATION DATE
Illinois Casualty Co	Aug 26, 2023	Aug 28, 2024
DRAM CANCEL DATE	OUTDOOR SERVICE EFFECTIVE DATE	OUTDOOR SERVICE EXPIRATION DATE
	Aug 26, 2023	Aug 26, 2023
BOND EFFECTIVE DATE	TEMP TRANSFER EFFECTIVE DATE	TEMP TRANSFER EXPIRATION DATE

**City of Cumming**  
**Claims To Be Approved**  
**All Transactions**

Type	Date	Num	Name	Memo	Amount
Check	06/30/2023		Combined Systems...	Invoice 160189	-14.70
Check	06/30/2023		Combined Systems...	Invoice 160378	-499.80
Check	06/30/2023		Oakland Corporation	Invoice 2300260	-3,100.00
Check	07/10/2023		First Net	Invoice 2873219294	-82.54
Check	07/10/2023		US Bank	Invoice 505155044 - Lanier Copier	-197.60
Check	07/13/2023		Century Link	Invoice for June Services	-284.57
Check	07/18/2023		MCP, LLC	Mowing July 2023	-4,786.00
Check	07/18/2023		MCP, LLC	July 2023 Tree Maintenance	-357.00
Check	07/18/2023		MCP, LLC	Nuissance Mowing July 2023	-225.00
Paycheck	07/18/2023		Conner, Rita		-2,199.57
Paycheck	07/18/2023		Onstot, Nichole		-1,067.02
Check	07/18/2023		N/Warren Town & ...	Notice of Public Hearing 7.10.23	-63.24
Check	07/19/2023		City of Des Moines	Invoice 131617 07.14.23	-2,990.20
<b>Total</b>					<b>-15,867.24</b>

**City of Cumming**  
**Balance Sheet by Month (Fiscal Year-To-Date)**  
As of July 1, 2023

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	Jul 1, 23
<b>ASSETS</b>	
<b>Current Assets</b>	
<b>Checking/Savings</b>	
0001110 · Operating Checking	42,916.25
0001111 · Savings	1,026.35
0001112 · Money Market	1,060,530.61
<b>Total Checking/Savings</b>	1,104,473.21
<b>Accounts Receivable</b>	
1220 · Accounts Receivable	92,127.34
<b>Total Accounts Receivable</b>	92,127.34
<b>Other Current Assets</b>	
Undeposited Funds	25.00
<b>Total Other Current Assets</b>	25.00
<b>Total Current Assets</b>	1,196,625.55
<b>TOTAL ASSETS</b>	<b>1,196,625.55</b>
<b>LIABILITIES &amp; EQUITY</b>	
<b>Liabilities</b>	
<b>Current Liabilities</b>	
<b>Other Current Liabilities</b>	
2120 · Accrued Payroll Taxes	6,099.68
<b>Total Other Current Liabilities</b>	6,099.68
<b>Total Current Liabilities</b>	6,099.68
<b>Total Liabilities</b>	6,099.68
<b>Equity</b>	
001-999 · Fund Balances	1,190,525.87
<b>Total Equity</b>	1,190,525.87
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<b>1,196,625.55</b>

**City of Cumming**  
**Profit & Loss by Fund (Last Month)**  
**June 2023**

	<u>Governmental Funds</u>	<u>TOTAL</u>
<b>Ordinary Income/Expense</b>		
<b>Income</b>		
<b>A · Taxes</b>	289.16	289.16
<b>B · Licenses &amp; Permits</b>	223.75	223.75
<b>C · Use of Money &amp; Property</b>	3,266.03	3,266.03
<b>D · Intergovernmental</b>	4,155.73	4,155.73
<b>E · Charges for Services</b>	35.00	35.00
<b>G · Miscellaneous Revenues</b>	649.48	649.48
<b>Total Income</b>	<u>8,619.15</u>	<u>8,619.15</u>
<b>Gross Profit</b>	8,619.15	8,619.15
<b>Expense</b>		
<b>100-799 · Governmental Activities</b>	226,238.35	226,238.35
<b>800 · Business Type Activities</b>	276,661.26	276,661.26
<b>Total Expense</b>	<u>502,899.61</u>	<u>502,899.61</u>
<b>Net Ordinary Income</b>	-494,280.46	-494,280.46
<b>Other Income/Expense</b>		
<b>Other Expense</b>		
<b>Fund Balance Transfer</b>	-494,280.46	-494,280.46
<b>Total Other Expense</b>	<u>-494,280.46</u>	<u>-494,280.46</u>
<b>Net Other Income</b>	494,280.46	494,280.46
<b>Net Income</b>	<u><u>0.00</u></u>	<u><u>0.00</u></u>



# RESOLUTION 2023-46

## CITY OF CUMMING

### SET A PUBLIC HEARING DATE TO REZONE CERTAIN PROPERTY WITHIN THE CITY LIMITS OF CUMMING FROM A-1 AGRICULTURE DISTRICT TO PUD PLANNED UNIT DEVELOPMENT DISTRICT AND AMEND THE OFFICIAL ZONING MAP OF THE CITY OF CUMMING, IOWA

**WHEREAS**, The City Council of the City of Cumming, Iowa, desires to consider changing the zoning on certain properties within the city limits of the City of Cumming, Iowa, from A-1 Agriculture District to C-1 Highway Commercial District, and

**WHEREAS**, the property is described as follows:

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AND

THE PROPERTY IS SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

**WHEREAS**, Iowa Law requires a Public Hearing be held before the Council prior to any changes in zoning district boundaries,

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Cumming, Iowa, as follows:

Section 1. The Council will meet at City Hall, 649 N. 44<sup>th</sup> Street, Cumming, Iowa, on Monday, August 28, 2023, at 6:00 p.m., at which time and place it will hold a public hearing on the matter of amending a district boundary on property as described above, from A-1 Agriculture District to PUD Planned Unit Development District.

Section 2. The City Clerk shall post notice of said hearing, which posting shall be at the three public places in said City which have been permanently designated by ordinance, and such posting shall be at least 7 days but not more than 20 days prior to any action by the City Council.

Passed and approved this 24<sup>th</sup> day of July 2023.

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Brent Highfill, Mayor

Attest:

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Nichole Onstot, City Clerk

**NOTICE OF PUBLIC HEARING  
CITY OF CUMMING**

**REZONING OF PROPERTY**

Notice is hereby given that the City Council of the City of Cumming, Iowa, will conduct a public hearing on Monday, August 28, 6:00 P.M. at the Cumming City Hall, 649 N. 44<sup>th</sup> Street, Cumming, Iowa, to receive comments on the following:

Property described as follows

Additional information regarding this request may be obtained by contacting the City Clerk at 515-981-9214. Anyone wishing to comment on this request should attend this hearing or submit written comments at any time prior to the hearing. Send comments to City of Cumming, P.O. Box 100, 649 N 44<sup>th</sup> Street Cumming, IA. 50061.

PARK & RECREATION BOARD MEETING MINUTES

July 11th, 2023 7:00 P.M.

Cumming City Hall

649 North 44<sup>th</sup> Street

Cumming, Iowa 50061

Call to order at 7:04 pm

Roll Call: Members in attendance: John McPartland, Alicia Kirkpatrick, Julie Cackler, Dave Button. Absent: Elizabeth Squier

Approval of Agenda as presented and or amended: Motion by Cackler, seconded by Button. Motion carried 4-0

Public Comment: None

Approval of Minutes from June meeting: Motion by Button, seconded by Cackler. Motion carried 4-0.

Business Items

- a. August Movie Night
    - i. July movie night did not occur in July due to weather
    - ii. Freaky Friday is movie choice for August, Lion King second choice
  - b. Christmas tree lights discussion
    - i. Offer from Bob Perkins to put up and remove Christmas lights-will this include the American Legion?
    - ii. Confirm if multiple quotes are needed for the work
2. Informational Items
    - a. McPartland discussed bicycle pumps loaned out by the Cumming Tap.
    - b. Kirkpatrick mentioned weeds by access to bike trail need to be cut back
  3. Next regular meeting: August 1, 2023. Motion by Button, seconded by Kirkpatrick to adjourn.
  4. Adjournment: 7:35

**Resolution 2023-47  
City of Cumming**

**Approving Final Plat for Middlebrook West**

**WHEREAS**, the Planning & Zoning Commission reviewed this request at a regular meeting on June 2023 and recommends approval of Final Plat for Middlebrook West; and

**WHEREAS**, that the applicant provides all supporting documentation required within the Cumming Code; and

**WHEREAS**, that any significant modification to the Final Plat must be reviewed by the Planning & Zoning Commission and approved by City Council; and

**NOW THEREFORE BE IT RESOLVED** by the City Council of the City of Cumming, Warren County, Iowa:

That the City of Cumming, Iowa approves the Final Plat for Middlebrook West as described and shown in exhibit "A" attached hereto and made a part thereof by reference

**PASSED AND APPROVED** this 24<sup>th</sup> day of July, 2023.

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Brent Highfill, Mayor

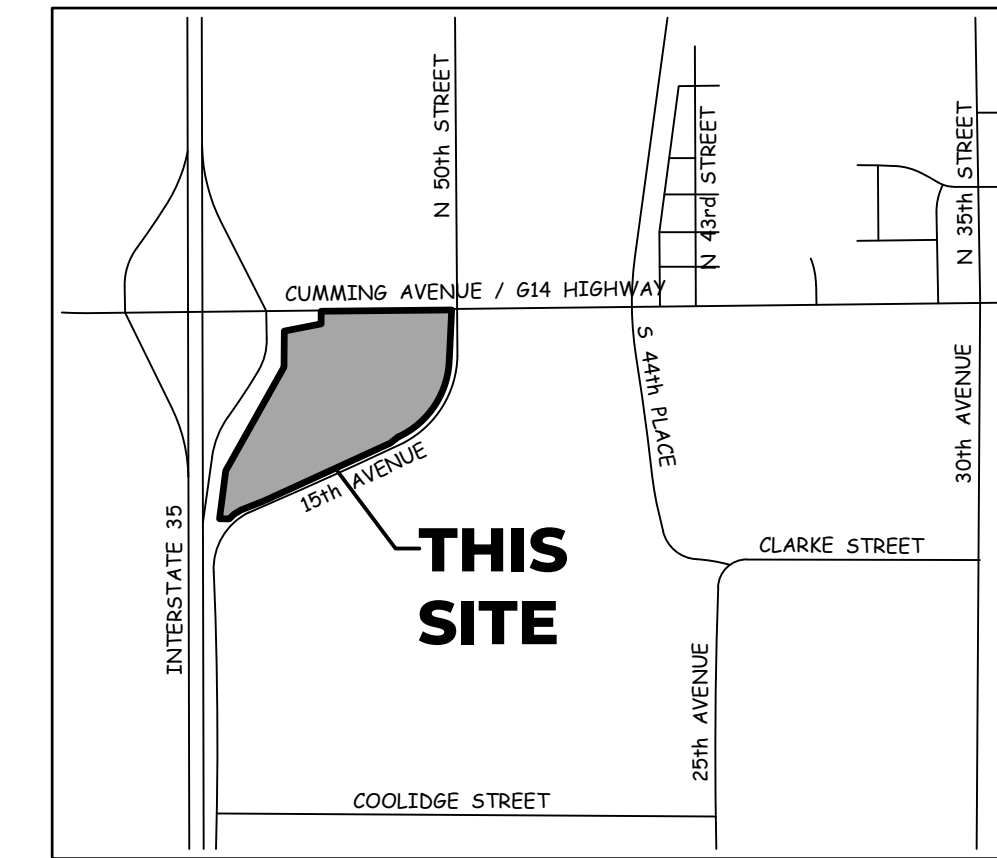
Attest:

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Nichole Onstot, City Clerk

**INDEX LEGEND**

LOCATION: NE 1/4, SEC. 18-77-25  
 REQUESTOR: MIDDLEBROOKHB, LLC/LAND CONCEPTS, LLC  
 PROPRIETOR: MIDDLEBROOKHB, LLC/LAND CONCEPTS, LLC  
 SURVEYOR: KEVEN J. CRAWFORD, P.L.S.  
 COMPANY: COOPER CRAWFORD & ASSOCIATES, LLC  
 475 S. 50th STREET, SUITE 800  
 WEST DES MOINES, IOWA 50265  
 RETURN TO: KEVEN J. CRAWFORD, P.L.S.

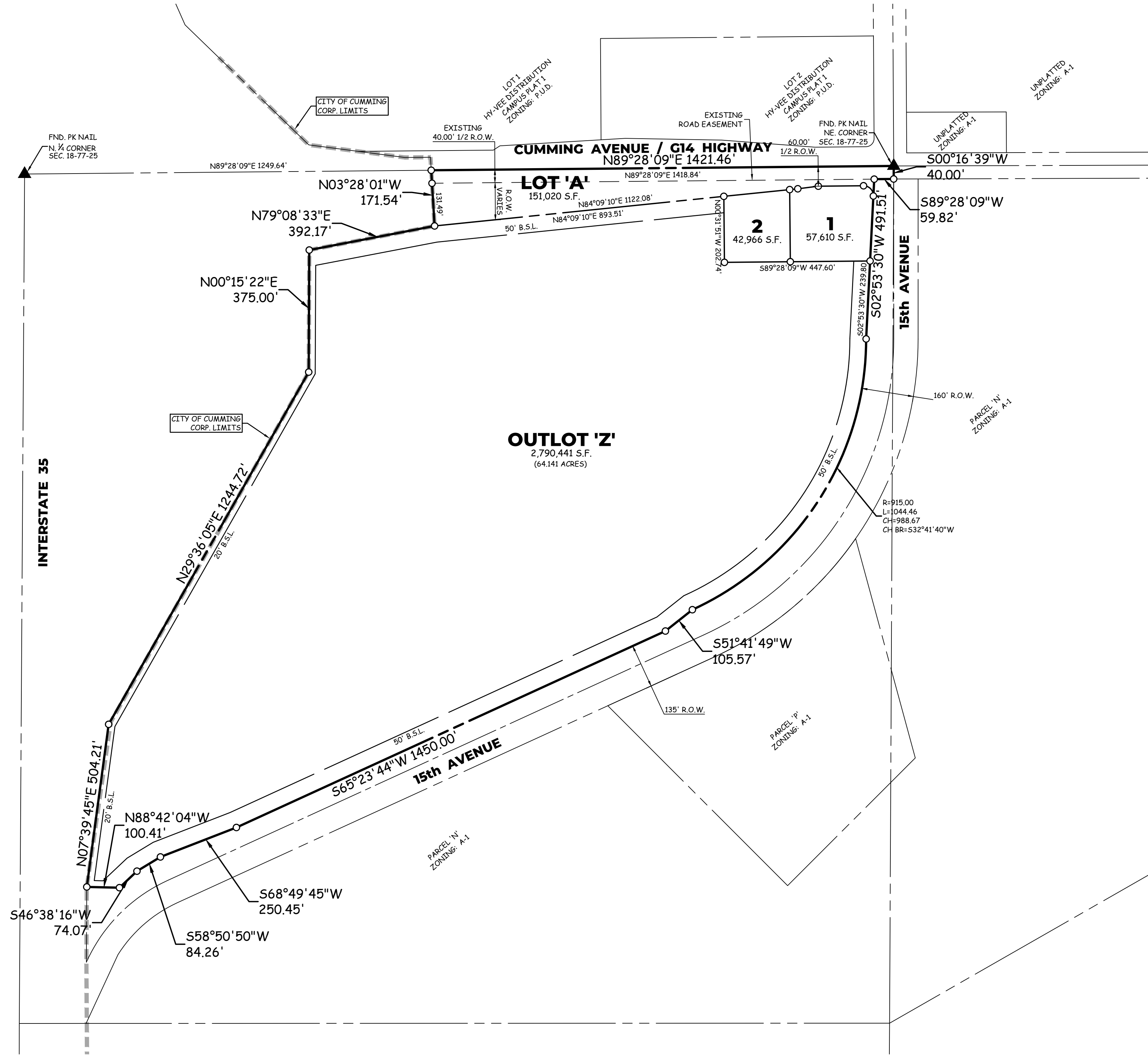


**CERTIFICATION**

**NORTH**  
 SCALE: 1"=2,000'

**NOTES**

1. ALL LOT CORNERS SHALL BE SET WITHIN ONE YEAR OF RECORDING.
2. THIS PLAT BOUNDARY HAS AN ERROR OF CLOSURE OF LESS THAN 1 IN 10,000.
3. EACH LOT IN THIS PLAT HAS AN ERROR OF CLOSURE OF LESS THAN 1 IN 5,000.
4. IN ANY AREA WHERE A PUBLIC UTILITY EASEMENT (P.U.E.) OVERLAPS, OR IS COINCIDENT WITH, A DESIGNATED UTILITY EASEMENT FOR SANITARY SEWER, WATER MAIN OR STORM SEWER, THE USE OF THE P.U.E. IS SUBORDINATE TO THE USE OF A DESIGNATED EASEMENT FOR SANITARY SEWER, WATER MAIN OR STORM SEWER PURPOSES. UTILITIES LOCATED IN THE P.U.E. THAT ARE IN CONFLICT WITH THE USE OF A DESIGNATED EASEMENT FOR SANITARY SEWER, WATER MAIN OR STORM SEWER PURPOSES MUST RELOCATE WITHOUT EXPENSE TO THE OWNER OF THE SANITARY SEWER, WATER MAIN OR STORM SEWER. THE USE OF THE P.U.E. IS SUBORDINATE IN PERPETUITY INCLUDING ANY FUTURE USE OF THE EASEMENT DESIGNATED FOR SANITARY SEWER, WATER MAIN OR STORM SEWER PURPOSES.
5. LOT 'A' IS FOR PUBLIC STREET RIGHT-OF-WAY.
6. OUTLOT 'Z' IS FOR FUTURE DEVELOPMENT.



# FINAL PLAT MIDDLEBROOK WEST

**OWNER / DEVELOPER**

MIDDLEBROOKHB, LLC / LAND CONCEPTS, LLC  
 12119 STRATFORD DRIVE, SUITE B  
 CLIVE, IOWA 50325  
 515-309-0705

**ZONING**

EXISTING: A-1 AGRICULTURAL DISTRICT  
 PROPOSED: C-1 HIGHWAY COMMERCIAL DISTRICT

**SETBACKS**

FRONT -50'  
 30' (STREET SIDE)  
 REAR -20'  
 SIDE -10'

**LEGAL DESCRIPTION**

A part of the Northeast 1/4 of Section 18, Township 77 North, Range 25 West of the 5th P.M., Warren County, Iowa, that is more particularly described as follows:

Beginning at the Northeast corner of Section 18, Township 77 North, Range 25 West of the 5th P.M., Warren County, Iowa: thence S00°16'39"E, 40.00 feet along the East line said Section 18, to the South right-of-way line of County Road 614, as it is presently established; thence S89°28'09"W, 59.82 feet along said South right-of-way line, to the West right-of-way line of 15th Avenue, as it is presently established; thence S02°53'30"W, 491.51 feet along said West right-of-way line, to a non-tangent 915.00 foot radius curve concave to the Northwest; thence Southwesterly 1,044.46 feet along said curve, and along said West right-of-way line, said curve having a chord length of 988.67 feet and a chord bearing of S32°41'40"W; thence S51°41'49"W, 105.57 feet along said West right-of-way line; thence S65°23'44"W, 1,450.00 feet along said West right-of-way line; thence S68°49'45"W, 250.45 feet along said West right-of-way line; thence S58°50'50"W, 84.26 feet along said West right-of-way line; thence S46°38'16"W, 74.07 feet along said West right-of-way line; thence N88°42'04"W, 100.41 feet along said West right-of-way line, to the East right-of-way line of Interstate 35, as it is presently established; thence N07°39'45"E, 504.21 feet along said East right-of-way line; thence N29°36'05"E, 1,244.72 feet along said East right-of-way line; thence N00°15'22"E, 375.00 feet along said East right-of-way line; thence N79°08'33"E, 392.17 feet along said East right-of-way line; thence N03°28'01"W, 171.54 feet along said East right-of-way line, to the North line of said Section 18; thence N89°28'09"E, 1,421.46 feet along said North line to the Point of Beginning

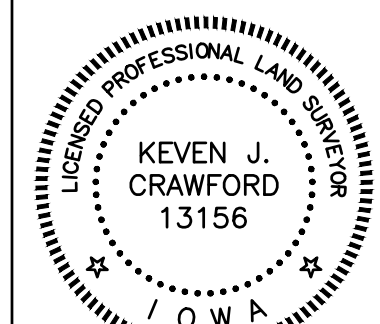
Said tract of land contains 69.836 acres more or less (includes 1.304 acres existing road right-of-way).

Said tract of land being subject to any and all easements of record.

**LEGEND**

- ▲ PLAT BOUNDARY
- SECTION CORNER
- FOUND CORNER, AS NOTED
- SET CORNER 5/8" I.R. W/ YELLOW CAP #13156
- I.R. IRON ROD
- G.P. GAS PIPE
- D. DEEDED DISTANCE
- M. MEASURED DISTANCE
- R. PREVIOUSLY RECORDED DISTANCE
- P.U.E. PUBLIC UTILITY EASEMENT
- 3333 ADDRESS
- B.S.L. BUILDING SETBACK LINE
- M.P.E. MINIMUM PROTECTION ELEVATION
- N.R. NOT RADIAL

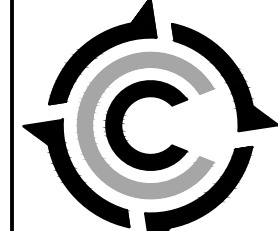
**CERTIFICATION**



I HEREBY CERTIFY THAT THIS LAND SURVEYING DOCUMENT WAS PREPARED AND THE RELATED SURVEY WORK WAS PERFORMED BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION, AND THAT I AM A DULY LICENSED PROFESSIONAL LAND SURVEYOR UNDER THE LAWS OF THE STATE OF IOWA.

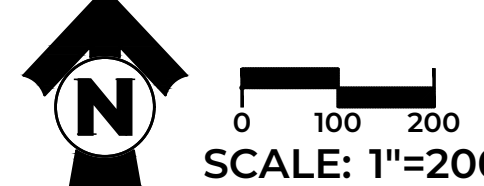
KEVEN J. CRAWFORD, P.L.S. IOWA LICENSE NO. 13156  
 MY LICENSE RENEWAL DATE IS DECEMBER 31, 2024

PAGES OR SHEETS COVERED BY THIS SEAL:  
 Sheets 1-4



**COOPER CRAWFORD & Associates**  
 Civil Engineers & Land Surveyors

475 S. 50th STREET, SUITE 800, WEST DES MOINES, IOWA 50265  
 PHONE: (515) 224-1344 FAX: (515) 224-1345



SCALE: 1"=200'

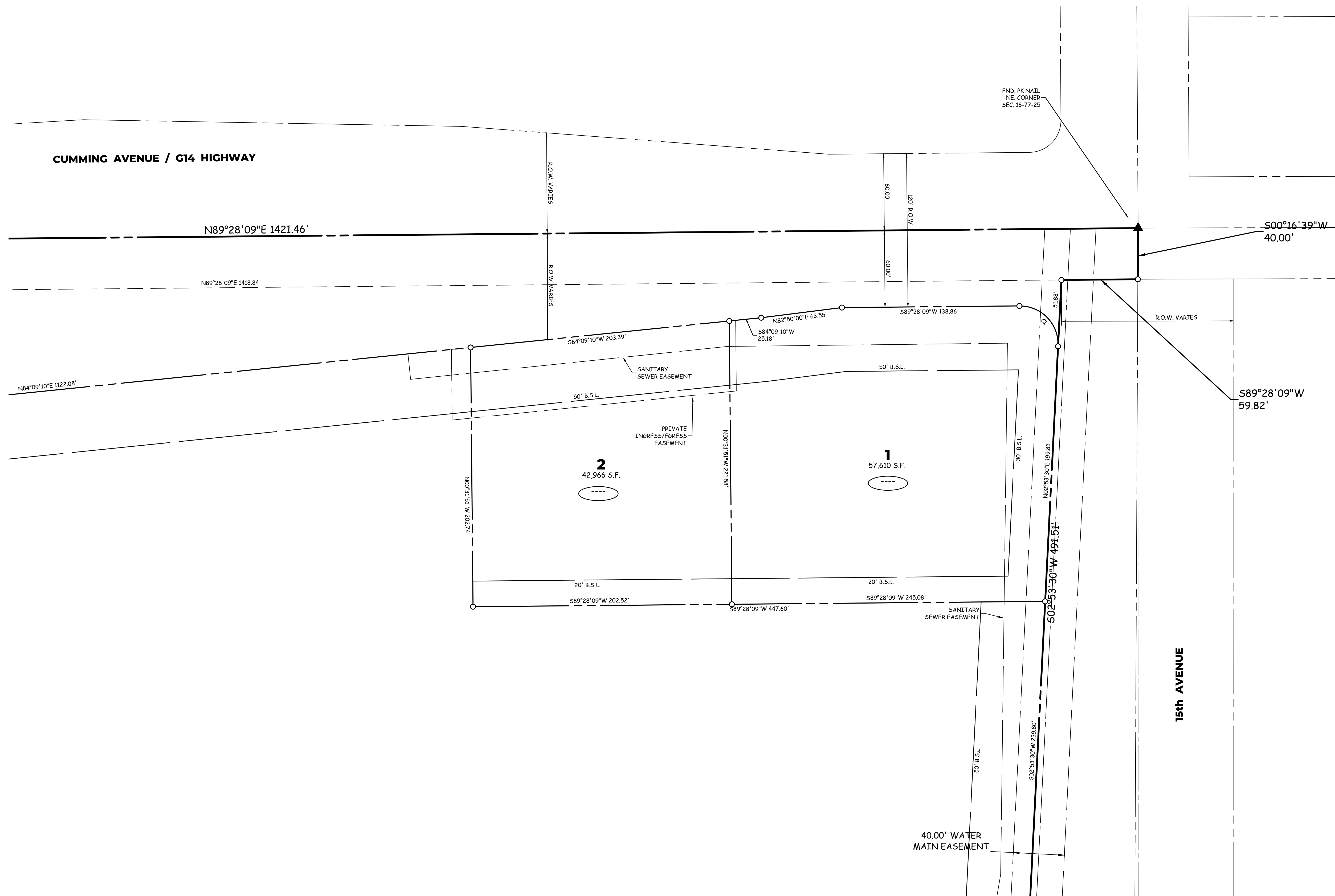
DATE: 5-16-2023  
 REVISIONS: 6-5-2023

**JOB NUMBER**  
**CC 2458**



AS-BUILT: ---  
**FINAL PLAT  
 MIDDLEBROOK WEST**  
**SHEET  
 1 OF 4**

# FINAL PLAT MIDDLEBROOK WEST



CURVE TABLE						
CURVE	DELTA	RADIUS	LENGTH	TANGENT	CHORD	CH. BEARING
C1	093°25'21"	30.00	48.92	31.85	43.67	S43°49'10"E

- LEGEND**
- ▲ PLAT BOUNDARY
  - SECTION CORNER
  - FOUND CORNER, AS NOTED
  - SET CORNER 5/8" I.R. W/ YELLOW CAP #13156
  - I.R. IRON ROD
  - G.P. GAS PIPE
  - D. DEEDED DISTANCE
  - M. MEASURED DISTANCE
  - R. PREVIOUSLY RECORDED DISTANCE
  - P.U.E. PUBLIC UTILITY EASEMENT
  - 3333 ADDRESS
  - B.S.L. BUILDING SETBACK LINE
  - M.P.E. MINIMUM PROTECTION ELEVATION
  - N.R. NOT RADIAL

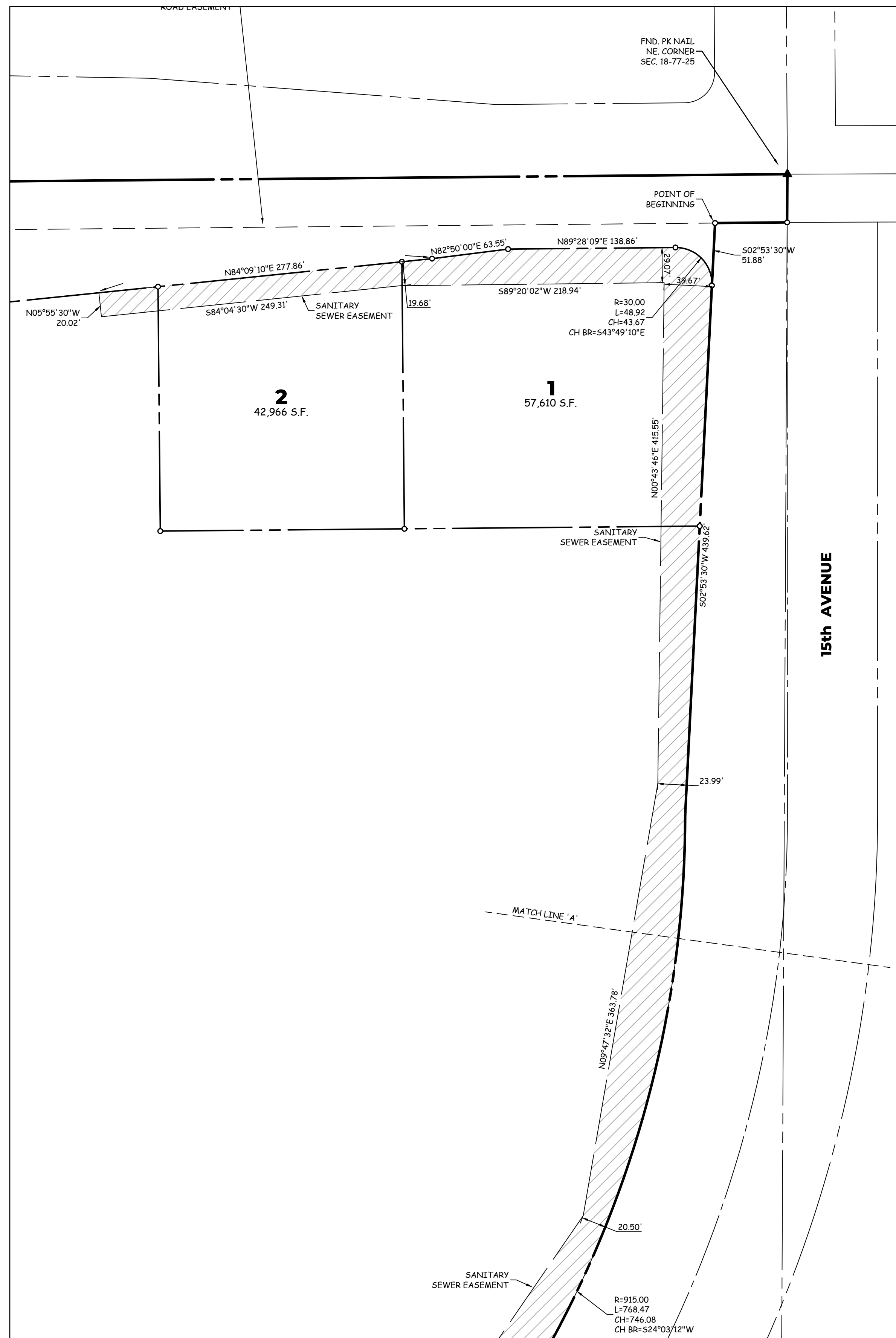
**COOPER CRAWFORD & Associates**  
Civil Engineers & Land Surveyors  
475 S. 50th STREET, SUITE 800, WEST DES MOINES, IOWA 50265  
PHONE: (515) 224-1344 FAX: (515) 224-1345

DATE: 5-16-2023  
REVISIONS: 6-5-2023  
JOB NUMBER  
**CC 2458**  
SCALE: 1"=40'  
AS-BUILT: ---

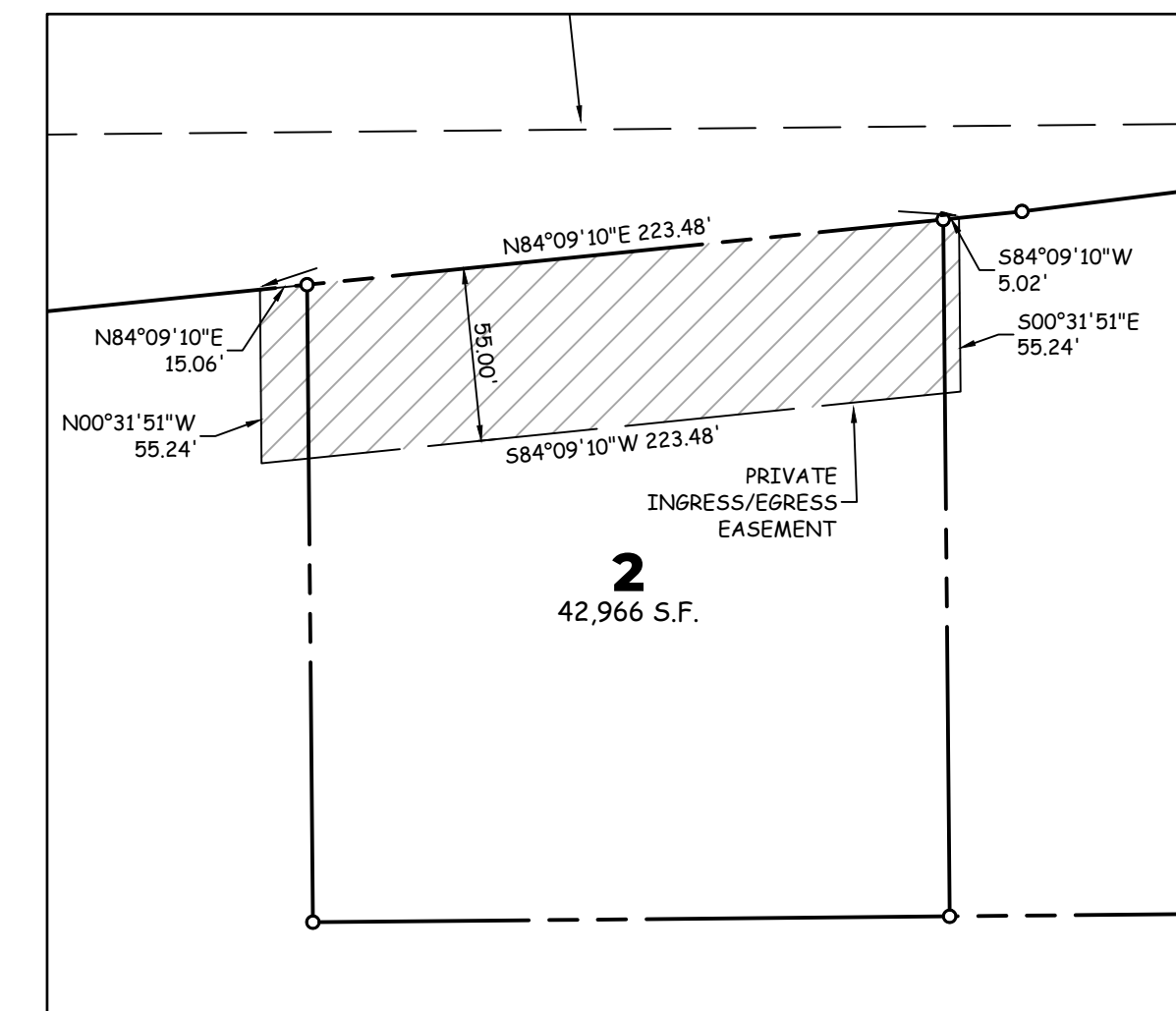


FINAL PLAT  
MIDDLEBROOK WEST  
SHEET  
2 OF 4

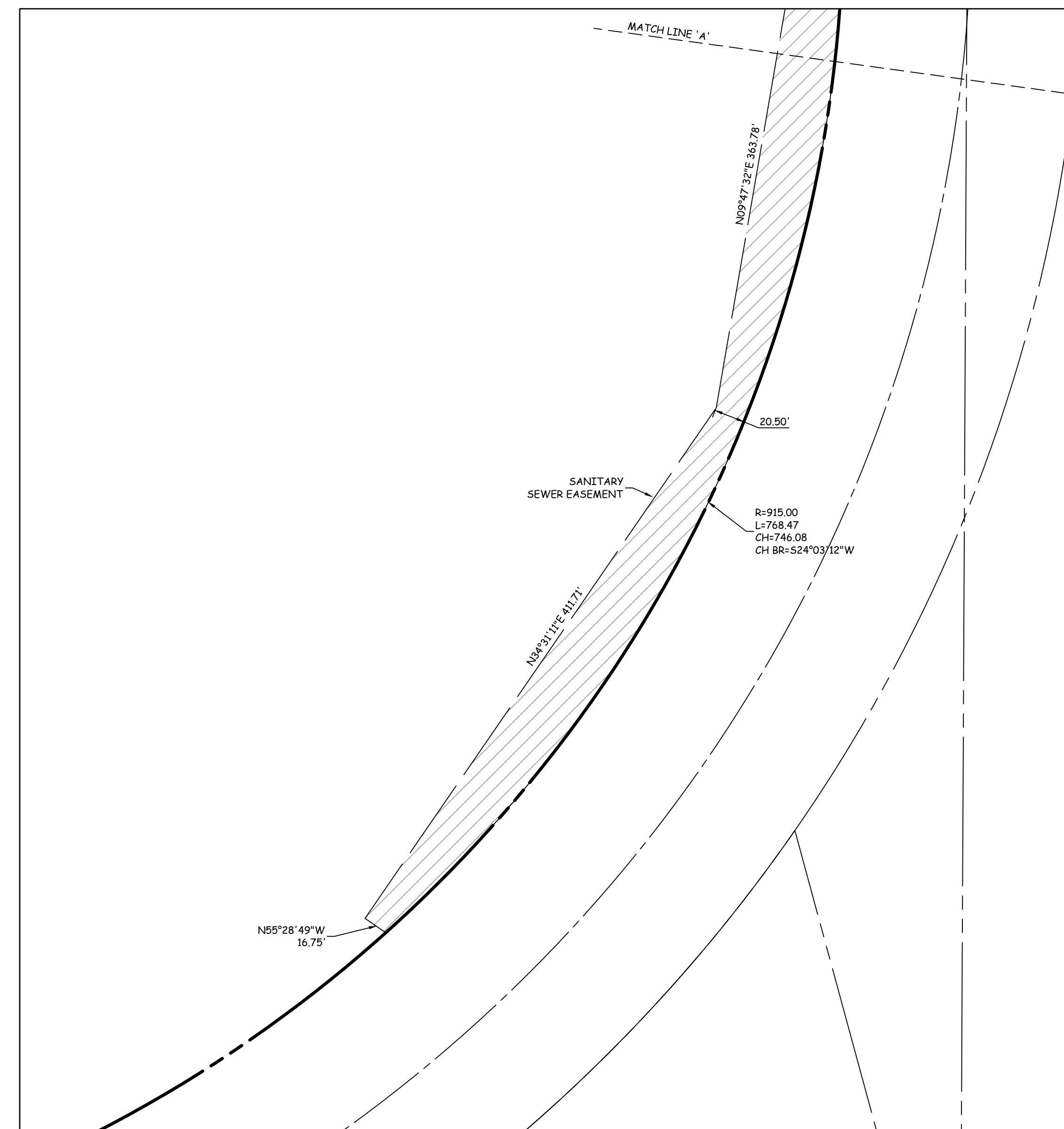
# FINAL PLAT MIDDLEBROOK WEST



**SANITARY SEWER EASEMENT DETAIL**



**PRIVATE INGRESS/EGRESS EASEMENT DETAIL**



**SANITARY SEWER EASEMENT DETAIL**

**LEGEND**

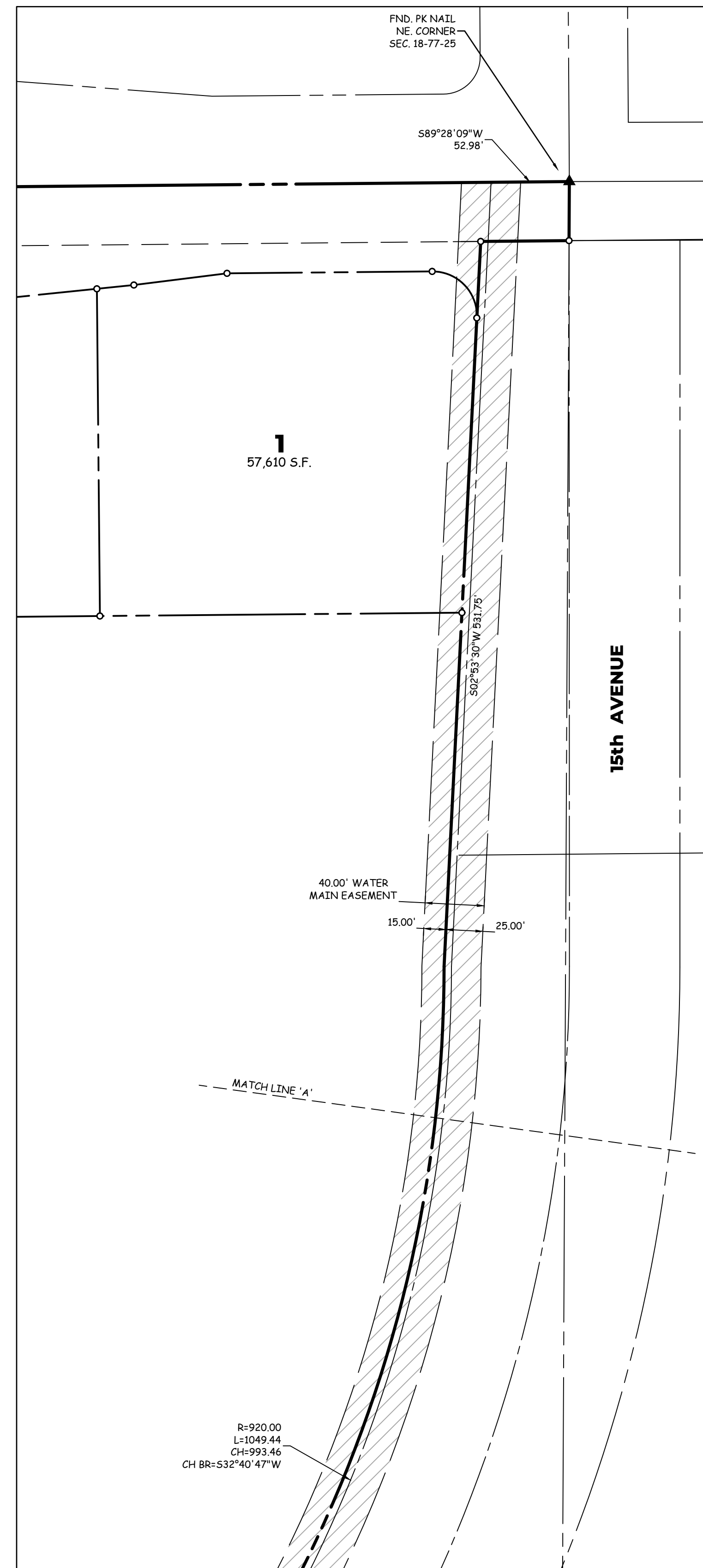
▲	PLAT BOUNDARY
●	SECTION CORNER
○	FOUND CORNER, AS NOTED
○	SET CORNER 5/8" I.R. W/ YELLOW CAP #13156
I.R.	IRON ROD
G.P.	GAS PIPE
D.	DEEDED DISTANCE
M.	MEASURED DISTANCE
R.	PREVIOUSLY RECORDED DISTANCE
P.U.E.	PUBLIC UTILITY EASEMENT
3333	ADDRESS
B.S.L.	BUILDING SETBACK LINE
M.P.E.	MINIMUM PROTECTION ELEVATION
N.R.	NOT RADIAL

**COOPER CRAWFORD & Associates**  
Civil Engineers & Land Surveyors  
475 S. 50th STREET, SUITE 800, WEST DES MOINES, IOWA 50265  
PHONE: (515) 224-1344 FAX: (515) 224-1345

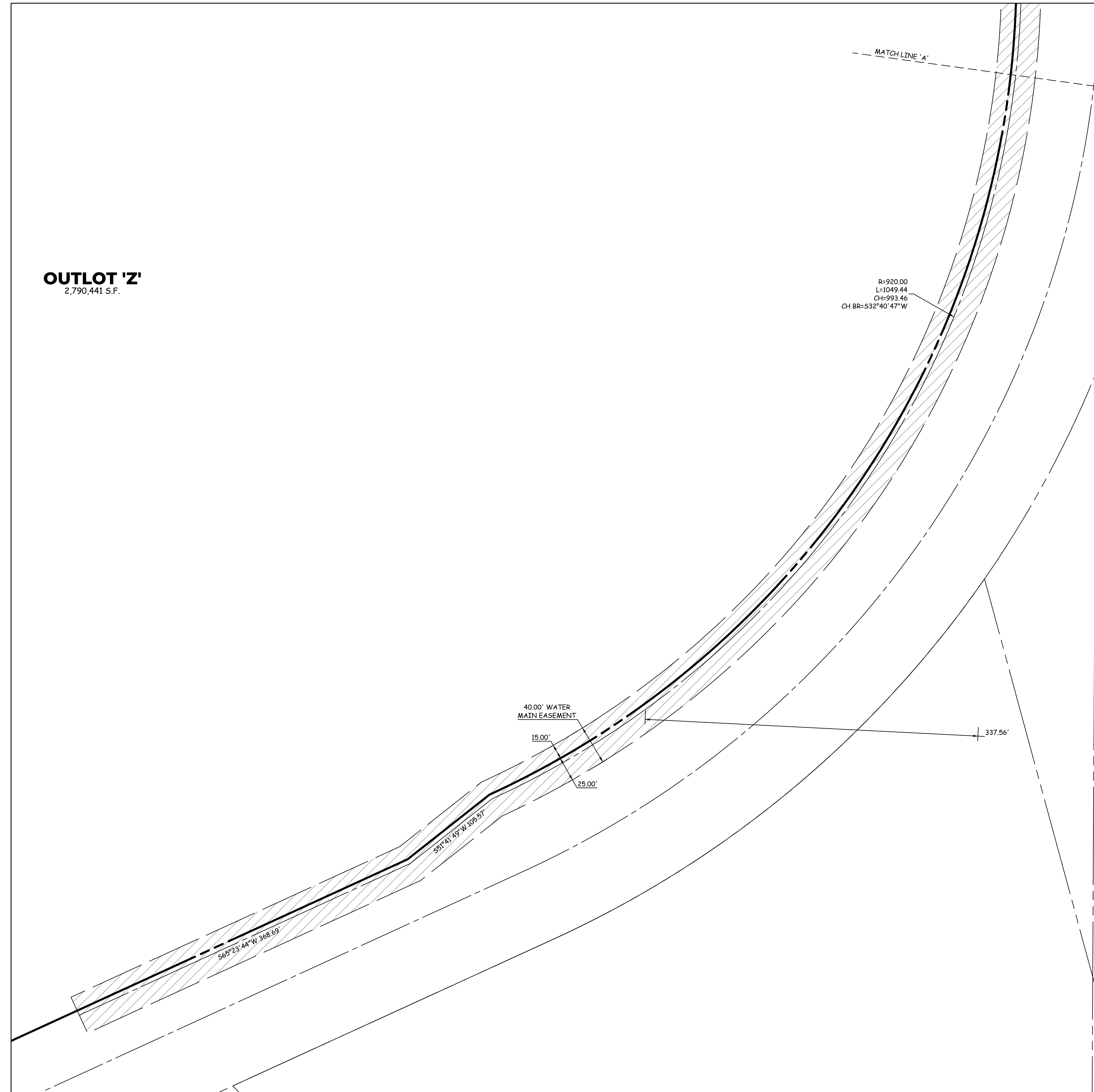
DATE: 5-16-2023  
REVISIONS: 6-5-2023  
JOB NUMBER  
**CC 2458**  
SCALE: 1"=60'  
AS-BUILT: ---



# FINAL PLAT MIDDLEBROOK WEST



**WATER MAIN EASEMENT DETAIL**



**WATER MAIN EASEMENT DETAIL**

**OUTLOT 'Z'**  
2,790,441 S.F.

**LEGEND**

▲	PLAT BOUNDARY
●	SECTION CORNER
○	FOUND CORNER, AS NOTED
○	SET CORNER 5/8" I.R. W/ YELLOW CAP #13156
I.R.	IRON ROD
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FINAL PLAT  
MIDDLEBROOK WEST

SHEET  
4 OF 4



## RESOLUTION 2023-48

### RESOLUTION CALLING A SPECIAL ELECTION FOR THE PROPOSAL TO IMPOSE A HOTEL AND MOTEL TAX WITHIN THE CITY.

**WHEREAS**, the City of Cumming, Iowa, proposes to impose by ordinance a hotel and motel tax within the City; and

**WHEREAS**, Section 423A.4 of the Code of Iowa provides that before the City Council may institute proceedings for the imposition of such a tax, it shall call a special election to vote upon the proposition of imposing the tax in accordance with the provisions of the statute; and

**WHEREAS**, the N/Warren Town and Country News, is a legal newspaper, printed wholly in English language, as defined by Section 618.3 of the Code of Iowa, and is published and of general circulation within the City.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Cumming, Iowa, as follows:

Section 1. That there is hereby called a special City Election on Tuesday, the 5<sup>th</sup> day of November, 2023, at which election there shall be submitted to the registered voters the following question:

#### **"SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED?"**

*Shall the City of Cumming, Iowa be authorized to impose by Ordinance a Local Hotel and Motel Tax at a rate of seven percent (7%), effective (January 1, 2024), with at least fifty percent (50%) of the revenues derived from the Local Hotel and Motel Tax to be used for parks, recreation and cultural enhancement; and the remaining revenues derived from the Local Hotel and Motel Tax to be used for all other purposes permitted pursuant to Chapter 423A of the Code of Iowa?"*

**Section 2.** That the voting place or places for the election, and the hours the polls shall be opened and closed shall be set out in the notice of election, such notice to be prepared and approved by the Warren County Commissioner of Elections.

**Section 3.** That the form of ballot to be used at the election shall be of the type authorized by the Code of Iowa that will permit the use of electronic counters and will be in substantially the form set forth in the Notice of Election. That if more than one public measure shall be submitted to the electors at the time of the election, all such measures shall be printed upon one ballot.

**Section 4.** That the Election Board for the voting precinct or precincts shall be appointed by the Warren County Commissioner of Elections, not less than 15 days before the date of said election.

**Section 5.** That the Auditor of Warren County, Iowa, being the County Commissioner of Elections, is hereby directed to publish notice of the election once in the "Northern Warren County Times", being a local newspaper, printed wholly in the English language, as defined by Section 618.3 of the Code of Iowa, published in said County and of general circulation therein, the publication to be not less than four nor more than twenty days prior to the date of the election.

**Section 6.** That the Warren County Commissioner of Elections shall cause to be prepared all such ballots and election registers and other supplies as may be necessary for the proper and legal conduct of said election.

**Section 7.** That the City Clerk is hereby directed to file a certified copy of this Resolution in the office of the Warren County Commissioner of Elections, which filing shall also constitute the "written notice" to the Warren County Commissioner of Elections of the election date required to be given by the governing body under the provisions of Chapter 47 of the Code of Iowa.

**PASSED AND APPROVED** this 24<sup>th</sup> day of July, 2023.

\_\_\_\_\_  
Brent Highfill, Mayor

ATTEST:

\_\_\_\_\_  
Nichole Onstot, City Clerk

<b>ROLL CALL VOTE:</b>	<b>Aye</b>	<b>Nay</b>	<b>Abstain</b>	<b>Absent</b>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Goode	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Hungerford	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ochanpaugh	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Squier	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cackler	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**RESOLUTION 2023-49**

**City of Cumming**

**Proposal from Braun Intertec for Limited Phase II Environmental Analysis for the Cumming Old Town Sanitary Sewer Project**

**WHEREAS**, the City of Cumming has undertaken preliminary design of a sanitary sewer project in the vicinity of N 44<sup>th</sup> Street, N 43<sup>rd</sup> Street and Cumming Avenue known as Old Town; and

**WHEREAS**, geotechnical borings conducted in the area as part of the preliminary design process prompted the further study of subsurface environmental conditions at the six select locations for the borings; and

**WHEREAS**, Braun Intertec has submitted a proposal for a Limited Phase II Environmental Analysis for the subject area with the estimated total of \$13,950; and

**WHEREAS**, the analysis is necessary to understand the conditions to be able to move forward with the project; and

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of Cumming, Iowa, as follows:

The proposal from Braun Intertec for Limited Phase II Environmental Analysis is hereby approved.

**Passed and approved this 24<sup>th</sup> day of July, 2023.**

\_\_\_\_\_  
Brent Highfill, Mayor

Attest:

\_\_\_\_\_  
Nichole Onstot, City Clerk

July 14, 2023

Proposal QTB181437

Mr. Alex Schlader  
McClure Engineering  
335 SE Oralabor Rd  
Ankeny, IA 50021

Submitted electronically to: [aschlader@mcclurevision.com](mailto:aschlader@mcclurevision.com)

Re: Proposal for Limited Phase II Environmental Site Assessment  
Cumming, Iowa

Dear Mr. Schlader:

Braun Intertec Corporation is pleased to present this proposal to McClure Engineering, Inc. (McClure or McClure Engineering) for the City of Cumming (City) to conduct a Limited Phase II Environmental Site Assessment (ESA) to assess areas with potential soil contamination along the City’s right-of-ways associated with the sanitary sewer infrastructure project. Our proposed scope of services are described herein with associated fees.

## Background

Braun Intertec was retained by McClure Engineering to conduct a geotechnical assessment in support of a City sanitary sewer infrastructure project. Six geotechnical borings were advanced at select locations along the proposed sewer line corridor on July 6, 2023. Potential environmental impacts were observed in multiple borings noting unusual odors and staining of soil. Braun Intertec staff collected samples of the suspected impacted soil for field screening. Collected soil samples were placed in sealable plastic bags, allowed to equilibrate, and the headspace within the bags was screened using a photoionization detector (PID) equipped with a 10.6 eV lamp and calibrated to a 100 part per million (PPM) isobutylene standard. The PID field screening detected elevated volatile compound vapors in soil samples from four of the six boring locations (screening results are presented in the table below).

Photoionization Detector (PID) Screening Results						
Sample Depth (ft)	Boring ST-01	Boring ST-02	Boring ST-03	Boring ST-04	Boring ST-05	Boring ST-06
3	1.0	3.2	7	23.5 (odor 1-15'; greenish staining)	8.4 (odor 1-3')	24.4 (odor 1-6')
5	6.3	16.8	4 (odor 3.5-6')	4	3.5	9
7-7.5	5.9	9.6	1.9	309	-	6.4
10	-	12	4.6	-	-	-
12.5	0.8	23.5	6.5	398	-	4.3
15	3.5	7.6	5.3	145	3.8	3.9

*PID readings are in units of parts per million (PPM)*

*Depths measure in feet below ground surface*

A preliminary review of current and historic land use in the vicinity of the boring locations was conducted to further evaluate the potential source for the apparent impacted soil. There were potential operations that may have some association with the potential impacts at the boring locations. For example, Boring ST-04 was located in the vicinity of a former underground storage tank (UST) facility. This boring indicated elevated PID readings from surface to total depth. There were several other historical operations along the planned sanitary sewer corridor that may be related to the potential impacts observed.

In accordance with communication with McClure Engineering's Project Site Contractor and the City of Cumming, the Limited Phase II ESA has been requested to evaluate the nature and degree of the apparent impacts as it relates to the Sanitary Sewer Infrastructure Project. The Limited Phase II ESA will involve sampling soil at select locations along the sanitary sewer corridor in the areas of the previous geotechnical borings where elevated PID screening results were observed. The sampling will also include step-out borings such as in the vicinity of boring ST-04. The objective is to confirm the PID screening results and, in the case of boring ST-04, attempt to quantify the extent of impacted soil along the sanitary sewer corridor.

The Limited Phase II ESA sampling is predicated on the fact that if contaminated soil is disturbed during the infrastructure construction phase, it may require management as a solid or hazardous waste which can impact the overall project. The sampling should help to confirm the requirements that may apply.

## Scope of Services

The Scope of Services for the Phase II ESA includes the following components:

- Health and Safety Planning
- Staking and Utility Clearance
- Soil Borings
- Soil Sampling and Analytical Testing
- Groundwater Sampling and Analytical Testing
- Decontamination and Investigation-Derived Waste
- Reporting

### Staking and Utility Clearance

A Site-specific Health and Safety Plan (HASP) will be created prior to initiation of Site work. Prior to drilling or excavating, Braun Intertec and/or the licensed drilling subcontractor will contact Iowa One Call to arrange for identifying and marking public utilities at and near the Site. Braun Intertec will also subcontract a private utility locator to locate private utilities at the Site with respect to planned boring locations.

### Soil Borings

Borings will be advanced at the Site by an Iowa-licensed drilling contractor to obtain soil and groundwater samples for laboratory analysis. The borings will be advanced using a direct push-probe drilling method. Boring depths may vary, but the proposed depth is anticipated to be 10 to 25 feet

below ground surface (bgs). In total, there are 6 proposed boring locations within the Site boundary: B-01, B-02, B-03, B-04, B-05, B-06). Boring locations are selected to confirm the apparent impact observed in the geotechnical borings. Step-out locations were identified to better evaluate potential source areas and the distribution of contaminants on Site. Locations of proposed borings are illustrated on the attached Figure 1.

### **Soil Sampling and Analytical Testing**

As each boring is advanced into the subsurface, soil cores will be continuously collected via the direct-push tooling. Sample collection will involve advancing cleaned, direct-push rods and GeoProbe® Dual Tube sampling methods. The Dual Tube methods include advancing a five-foot rod equipped with a PVC liner. As the rod is advanced, a continuous soil core is captured with the PVC liner. After advancing five feet, the PVC liner will be retrieved to the surface where it will be opened for screening and sampling. Outer rods will remain in place serving as a casing, and a new liner will be placed in the sampler and advanced another five feet, repeating until the targeted depth is reached. Following completion, the boreholes will be properly abandoned and sealed with bentonite in accordance with Iowa regulations.

Soil screening will be conducted during boring advancement to identify potential contamination and facilitate the collection of soil samples. Soil samples retrieved will be examined by field personnel for unusual staining, odors, and other apparent signs of contamination. Soil samples will be screened using a PID equipped with a 10.6 eV lamp and calibrated to an isobutylene standard in accordance with Braun Intertec's standard operating procedures, SOP 203 – Soil Boring Observation and Sampling and SOP 2020 – Organic Vapor Soil Screening. The soil will also be visually and manually classified in the field by an environmental professional using ASTM D 2487 “Unified Soils Classification System” and ASTM D 2488 “Recommended Practice for Visual and Manual Description of Soils.”

Based on field screening results, one soil sample will be collected from select soil borings for laboratory analysis in accordance with Braun Intertec SOPs 208, 209, and 210. The boring B-04 will have two samples collected; these sampling intervals may include a shallow surface sample and an additional sample collected from the zone of highest impact, if observed. If no impact is observed during screening the soil core, one soil sample may be collected from depths most likely to be impacted based on the potential contaminant source.

The budget for this task assumes that a total of 7 boring samples will be collected for laboratory analysis. Soil samples will be submitted to Test America Laboratories, an Iowa-certified laboratory, and analyzed for:

- Volatile organic compounds (VOCs) using EPA Method 8260;
- Semivolatile organic compounds (SVOCs) using EPA Method 8270;
- Total petroleum hydrocarbons (TPH) as Iowa method OA1; and
- TPH as Iowa Method OA2.

Soil samples will be analyzed on a standard laboratory turn-around time of eight to 10 business days.

## Groundwater Sampling and Analytical Testing

For groundwater sampling, probes will be advanced either in or adjacent to soil borings to at least four to six feet beneath the static water level. The direct-push rods will be equipped with a four-foot drop-out screen sampler and expendable drive point. Once the sampler is advanced to the desired depth, the rods will be retracted approximately four feet to expose the drop-out screen and allow groundwater to enter the sampler. After exposing the screen, and prior to sample collection, the water level will be measured using an electronic water level meter to the nearest 0.01 foot. Following water level measurement, groundwater samples will be collected using new, 3/8-inch diameter polypropylene tubing and either a stainless steel check valve or peristaltic pump. Prior to sample collection, approximately one liter to one gallon of fluid by will be purged. After purging, groundwater samples will be collected using appropriate collection methods for the targeted analytes.

The budget for this task assumes that one groundwater sample will be collected from one location, B-04 and submitted to Test America Laboratory and analyzed for:

- VOCs by EPA Method 8260;
- SVOCs by USEPA Method 8270;
- Total petroleum hydrocarbons (TPH) as Iowa method OA1; and
- TPH as Iowa Method OA2.

Groundwater samples will be analyzed on a standard laboratory turn-around time of 8 to 10 business days.

## Decontamination and Investigation-Derived Waste

Equipment used as part of this assessment will be appropriately cleaned prior to arriving on Site. Drilling tooling including drill rods, stainless steel samplers, and components will be cleaned prior to use and between borings as necessary. If on-Site decontamination is necessary, the drill tooling will be pressure washed using potable water and non-phosphate soap (e.g., Alconox), and will be rinsed with distilled or deionized water. Other, non-disposable equipment used such as the water level meter, stainless steel check valve, or other equipment contacting sampled media will also be cleaned using an Alconox wash with distilled or deionized water rinse. Decontamination fluids will be managed appropriately.

Investigation-derived waste (IDW) is anticipated to include decontamination fluids, purge water, soil cuttings, and disposal personal protective equipment including gloves, PVC liners, tubing, etc. If indications of contamination are identified during sampling activities, impacted IDW fluids and soil cuttings will be containerized and sampled for disposal. Otherwise, soil cuttings and water will be thin spread on Site. Disposable IDW (gloves, PVC liners, tubing, etc.) will be placed in trash bags and disposed as municipal solid waste.

## Reporting

Preliminary results of the assessment will be provided to you as they become available. Upon completing the on-Site work and receiving laboratory analytical results, a report will be prepared to detail the methods, results, and conclusions/recommendations. A draft copy of the report will be forwarded to you prior to report finalization.

Only an electronic copy of the Braun Intertec report will be submitted to you unless you request otherwise.

## Cost Estimate

Braun Intertec will provide the services described herein on an hourly and unit-cost basis. The estimated cost breakdown summary includes:

<b>Service Description</b>	<b>Cost</b>
<i>Phase II Environmental Site Assessment</i>	
Private Utility Clearance Subcontractor	\$ 600
Subcontract Drilling Services	\$4,200
Labor, Field Equipment, Sampling Supplies and Mileage	\$725
Subcontract Analytical Testing (assumes standard turnaround) – Cost + 10%	\$2,400
Professional Services – Field and Coordination	\$2,780
Reporting	<u>\$3,245</u>
<b><i>Estimated Total</i></b>	<b>\$13,950</b>

Braun Intertec will begin the project upon receipt of your authorization. The estimated cost of \$13,950 presented is based on the Scope of Services described and the assumption that the proposal will be authorized within 30 days and that the project will be completed within the proposed schedule.

## Scheduling

Depending on drill rig/equipment and private utility locator availability, fieldwork will be initiated within three weeks of receiving your authorization. The fieldwork is estimated to take two to three days to complete. The typical turn-around time on laboratory analysis is approximately eight to 10 business days. A draft report will be forwarded to you within two weeks after receipt of laboratory analytical results. If this schedule is not acceptable, please let us know so we can accommodate your needs. Additionally, requesting faster turn-around time from the laboratory is possible but will incur additional charges.

## Assessment Limitations

Please note the Scope of Services for the proposed investigation, in conjunction with the existing data, is designed to further evaluate impacts at the Site. However, because there is a fixed number of sampling locations proposed, the Scope of Services proposed herein may not fully define the extent of contamination that may be present at the Site.

## Acceptance of Proposal/General Remarks

Braun Intertec appreciates the opportunity to present this proposal to you. This proposal is being sent in an electronic version **only**.



After reviewing this proposal, ***please sign and return one copy to Braun Intertec as notification of acceptance and authorization to proceed.*** If anything in this proposal is not consistent with your requirements, please let us know immediately. The Braun Intertec General Conditions are included with this proposal and are a part of our agreement.

If you have any questions regarding this proposal, please feel free to contact Cara Matteson at 319.331.4554.

Sincerely,

BRAUN INTERTEC CORPORATION



Cara Matteson, P.G.  
Senior Scientist



Franky D. Arnwine, P.G.  
Business Unit Leader/Principal Geologist

Attachments:

Figure 1: Proposed Sampling Locations  
General Conditions – (1/1/18)

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The proposal including the Braun Intertec General Conditions is accepted, and you are authorized to proceed:

\_\_\_\_\_  
Authorizer's Firm

\_\_\_\_\_  
Authorizer's Signature

\_\_\_\_\_  
Authorizer's Name (please print or type)

\_\_\_\_\_  
Authorizer's Title

\_\_\_\_\_  
Date

# Sanitary Sewer Collection System Study

## Limited Phase II ESA

Cumming, Iowa





-  Geotechnical sampled locations (ST-01 through ST-06)
-  Proposed Soil Sample Locations (B-01, B-02)
-  Proposed Soil and Groundwater Sample Locations (B-04) at previous Geotechnical sample location (ST-04)
-  Proposed Soil Sample Locations (B-03, B-05, B-06) at previous Geotechnical sample locations (ST-03, ST-05, ST-06)



Image Source: Google Earth



### Proposed Sampling Locations

Figure 1

## Section 1: Agreement

**1.1** Our agreement with you consists of these General Conditions and the accompanying written proposal or authorization (“Agreement”). This Agreement is the entire agreement between you and us. It supersedes prior agreements. It may be modified only in a writing signed by us, making specific reference to the provision modified.

**1.2** The words “you,” “we,” “us,” and “our” include officers, employees, and subcontractors.

**1.3** In the event you use a purchase order or other documentation to authorize our scope of work (“Services”), any conflicting or additional terms are not part of this Agreement. Directing us to start work prior to execution of this Agreement constitutes your acceptance. If, however, mutually acceptable terms cannot be established, we have the right to terminate this Agreement without liability to you or others, and you will compensate us for fees earned and expenses incurred up to the time of termination.

## Section 2: Our Responsibilities

**2.1** We will provide Services specifically described in this Agreement. You agree that we are not responsible for services that are not expressly included in this Agreement. Unless otherwise agreed in writing, our findings, opinions, and recommendations will be provided to you in writing. You agree not to rely on oral findings, opinions, or recommendations without our written approval.

**2.2** In performing our professional services, we will use that degree of care and skill ordinarily exercised under similar circumstances by reputable members of our profession practicing in the same locality. If you direct us to deviate from our recommended procedures, you agree to hold us harmless from claims, damages, and expenses arising out of your direction. If during the one year period following completion of Services it is determined that the above standards have not been met and you have promptly notified us in writing of such failure, we will perform, at our cost, such corrective services as may be necessary, within the original scope in this Agreement, to remedy such deficiency. Remedies set forth in this section constitute your sole and exclusive recourse with respect to the performance or quality of Services.

**2.3** We will reference our field observations and sampling to available reference points, but we will not survey, set, or check the accuracy of those points unless we accept that duty in writing. Locations of field observations or sampling described in our report or shown on our sketches are based on information provided by others or estimates made by our personnel. You agree that such dimensions, depths, or elevations are approximations unless specifically stated otherwise in the report. You accept the inherent risk that samples or observations may not be representative of things not sampled or seen and further that site conditions may vary over distance or change over time.

**2.4** Our duties do not include supervising or directing your representatives or contractors or commenting on, overseeing, or providing the means and methods of their services unless expressly set forth in this Agreement. We will not be responsible for the failure of your contractors, and the providing of Services will not relieve others of their responsibilities to you or to others.

**2.5** We will provide a health and safety program for our employees, but we will not be responsible for contractor, owner, project, or site health or safety.

**2.6** You will provide, at no cost to us, appropriate site safety measures as to work areas to be observed or inspected by us. Our employees are authorized by you to refuse to work under conditions that may be unsafe.

**2.7** Unless a fixed fee is indicated, our price is an estimate of our project costs and expenses based on information available to us and our experience and knowledge. Such estimates are an exercise of our professional judgment and are not guaranteed or warranted. Actual costs may vary. You should allow a contingency in addition to estimated costs.

## Section 3: Your Responsibilities

**3.1** You will provide us with prior environmental, geotechnical and other reports, specifications, plans, and information to which you have access about the site. You agree to provide us with all plans, changes in plans, and new information as to site conditions until we have completed Services.

**3.2** You will provide access to the site. In the performance of Services some site damage is normal even when due care is exercised. We will use reasonable care to minimize damage to the site. We have not included the cost of restoration of damage in the estimated charges.

**3.3** You agree to provide us, in a timely manner, with information that you have regarding buried objects at the site. We will not be responsible for locating buried objects at the site. *You agree to hold us harmless, defend, and indemnify us from claims, damages, losses, penalties and expenses (including attorney fees) involving buried objects that were not properly marked or identified or of which you had knowledge but did not timely call to our attention or correctly show on the plans you or others furnished to us.*

**3.4** You will notify us of any knowledge or suspicion of the presence of hazardous or dangerous materials present on any work site or in a sample provided to us. You agree to provide us with information in your possession or control relating to such materials or samples. If we observe or suspect the presence of contaminants not anticipated in this Agreement, we may terminate Services without liability to you or to others, and you will compensate us for fees earned and expenses incurred up to the time of termination.

**3.5** Neither this Agreement nor the providing of Services will operate to make us an owner, operator, generator, transporter, treater, storer, or a disposal facility within the meaning of the Resource Conservation Recovery Act, as amended, or within the meaning of any other law governing the handling, treatment, storage, or disposal of hazardous substances. *You agree to hold us harmless, defend, and indemnify us from any claims, damages, penalties or losses resulting from the storage, removal, hauling or disposal of such substances.*

**3.6** Monitoring wells are your property, and you are responsible for their permitting, maintenance, and abandonment unless expressly set forth otherwise in this Agreement.

**3.7** You agree to make all disclosures required by law. In the event you do not own the project site, you acknowledge that it is your duty to inform the owner of the discovery or release of contaminants at the site. *You agree to hold us harmless, defend, and indemnify us from claims, damages, penalties, or losses and expenses, including attorney fees, related to failures to make disclosures, disclosures made by us that are required by law, and from claims related to the informing or failure to inform the site owner of the discovery of contaminants.*

## Section 4: Reports and Records

**4.1** Unless you request otherwise, we will provide our report in an electronic format.

**4.2** Our reports, notes, calculations, and other documents and our computer software and data are instruments of our service to you, and they remain our property. We hereby grant you a license to use the reports and related information we provide only for the related project and for the purposes disclosed to us. You may not transfer our reports to others or use them for a purpose for which they were not prepared without our written approval. *You agree to indemnify, defend, and hold us harmless from claims, damages, losses, and expenses, including attorney fees, arising out of such a transfer or use.*

**4.3** If you do not pay for Services in full as agreed, we may retain work not yet delivered to you and you agree to return to us all of our work that is in your possession or under your control.

**4.4** Samples and field data remaining after tests are conducted and field and laboratory equipment that cannot be adequately cleansed of contaminants are and continue to be your property. They may be discarded or returned to you, at our discretion, unless within 15 days of the report date you give us written direction to store or transfer the materials at your expense.

**4.5** Electronic data, reports, photographs, samples, and other materials provided by you or others may be discarded or returned to you, at our discretion, unless within 15 days of the report date you give us written direction to store or transfer the materials at your expense.

## Section 5: Compensation

5.1 You will pay for Services as stated in this Agreement. If such payment references our Schedule of Charges, the invoicing will be based upon the most current schedule. An estimated amount is not a firm figure. You agree to pay all sales taxes and other taxes based on your payment of our compensation. Our performance is subject to credit approval and payment of any specified retainer.

5.2 You will notify us of billing disputes within 15 days. You will pay undisputed portions of invoices upon receipt. You agree to pay interest on unpaid balances beginning 30 days after invoice dates at the rate of 1.5% per month, or at the maximum rate allowed by law.

5.3 If you direct us to invoice a third party, we may do so, but you agree to be responsible for our compensation unless the third party is creditworthy (in our sole opinion) and provides written acceptance of all terms of this Agreement.

5.4 Your obligation to pay for Services under this Agreement is not contingent on your ability to obtain financing, governmental or regulatory agency approval, permits, final adjudication of any lawsuit, your successful completion of any project, receipt of payment from a third party, or any other event. No retainage will be withheld.

5.5 If you do not pay us in accordance with this Agreement, you agree to reimburse all costs and expenses for collection of the moneys invoiced, including but not limited to attorney fees and staff time.

5.6 You agree to compensate us in accordance with our Schedule of Charges if we are asked or required to respond to legal process arising out of a proceeding related to the project and as to which we are not a party.

5.7 If we are delayed by factors beyond our control, or if project conditions or the scope or amount of work changes, or if changed labor conditions result in increased costs, decreased efficiency, or delays, or if the standards or methods change, we will give you timely notice, the schedule will be extended for each day of delay, and we will be compensated for costs and expenses incurred in accordance with our Schedule of Charges.

5.8 If you fail to pay us in accordance with this Agreement, we may consider the default a total breach of this Agreement and, at our option, terminate our duties without liability to you or to others, and you will compensate us for fees earned and expenses incurred up to the time of termination.

5.9 In consideration of our providing insurance to cover claims made by you, you hereby waive any right to offset fees otherwise due us.

## Section 6: Disputes, Damage, and Risk Allocation

6.1 Each of us will exercise good faith efforts to resolve disputes without litigation. Such efforts will include, but not be limited to, a meeting(s)

attended by each party's representative(s) empowered to resolve the dispute. Before either of us commences an action against the other, disputes (except collections) will be submitted to mediation.

**6.2 Notwithstanding anything to the contrary in this Agreement, neither party hereto shall be responsible or held liable to the other for punitive, indirect, incidental, or consequential damages, or liability for loss of use, loss of business opportunity, loss of profit or revenue, loss of product or output, or business interruption.**

6.3 You and we agree that any action in relation to an alleged breach of our standard of care or this Agreement shall be commenced within one year of the date of the breach or of the date of substantial completion of Services, whichever is earlier, without regard to the date the breach is discovered. Any action not brought within that one year time period shall be barred, without regard to any other limitations period set forth by law or statute. We will not be liable unless you have notified us within 30 days of the date of such breach and unless you have given us an opportunity to investigate and to recommend ways of mitigating damages. You agree not to make a claim against us unless you have provided us at least 30 days prior to the institution of any legal proceeding against us with a written certificate executed by an appropriately licensed professional specifying and certifying each and every act or omission that you contend constitutes a violation of the standard of care governing our professional services. Should you fail to meet the conditions above, you agree to fully release us from any liability for such allegation.

**6.4 For you to obtain the benefit of a fee which includes a reasonable allowance for risks, you agree that our aggregate liability for all claims will not exceed the fee paid for Services or \$50,000, whichever is greater. If you are unwilling to accept this allocation of risk, we will increase our aggregate liability to \$100,000 provided that, within 10 days of the date of this Agreement, you provide payment in an amount that will increase our fees by 10%, but not less than \$500, to compensate us for the greater risk undertaken.** This increased fee is not the purchase of insurance.

**6.5 You agree to indemnify us from all liability to others in excess of the risk allocation stated herein and to insure this obligation. In addition, all indemnities and limitations of liability set forth in this Agreement apply however the same may arise, whether in contract, tort, statute, equity or other theory of law, including, but not limited to, the breach of any legal duty or the fault, negligence, or strict liability of either party.**

6.6 This Agreement shall be governed, construed, and enforced in accordance with the laws of the state in which our servicing office is located, without regard to its conflict of law rules. The laws of the state of our servicing office will govern all disputes, and all claims shall be heard in the state or federal courts for that state. Each of us waives trial by jury.

6.7 No officer or employee acting within the scope of employment shall have individual liability for his or her acts or omissions, and you agree not to make a claim against individual officers or employees.

## Section 7: General Indemnification

7.1 We will indemnify and hold you harmless from and against demands, damages, and expenses of others to the comparative extent they are caused by our negligent acts or omissions or those negligent acts or omissions of persons for whom we are legally responsible. You will indemnify and hold us harmless from and against demands, damages, and expenses of others to the comparative extent they are caused by your negligent acts or omissions or those negligent acts or omissions of persons for whom you are legally responsible.

7.2 To the extent it may be necessary to indemnify either of us under Section 7.1, you and we expressly waive, in favor of the other only, any immunity or exemption from liability that exists under any worker compensation law.

7.3 You agree to indemnify us against losses and costs arising out of claims of patent or copyright infringement as to any process or system that is specified or selected by you or by others on your behalf.

## Section 8: Miscellaneous Provisions

8.1 We will provide a certificate of insurance to you upon request. Any claim as an Additional Insured shall be limited to losses caused by our negligence.

8.2 You and we, for ourselves and our insurers, waive all claims and rights of subrogation for losses arising out of causes of loss covered by our respective insurance policies.

8.3 Neither of us will assign or transfer any interest, any claim, any cause of action, or any right against the other. Neither of us will assign or otherwise transfer or encumber any proceeds or expected proceeds or compensation from the project or project claims to any third person, whether directly or as collateral or otherwise.

8.4 This Agreement may be terminated early only in writing. You will compensate us for fees earned for performance completed and expenses incurred up to the time of termination.

8.5 If any provision of this Agreement is held invalid or unenforceable, then such provision will be modified to reflect the parties' intention. All remaining provisions of this Agreement shall remain in full force and effect.

8.6 No waiver of any right or privilege of either party will occur upon such party's failure to insist on performance of any term, condition, or instruction, or failure to exercise any right or privilege or its waiver of any breach.

**Resolution 2023-50**  
**AGREEMENT**  
**FOR PROFESSIONAL ENGINEERING**  
**SERVICES**

**THIS AGREEMENT** Amendment, made and entered into this 24<sup>th</sup> day of July 2023 by and between the **CITY OF CUMMING, IOWA**, hereinafter referred to as the **Owner** or **City**, party of the first part, and **VEENSTRA & KIMM, INC.**, a corporation organized and existing under the laws of the State of Iowa, party of the second part, hereinafter referred to as the **Engineers**,

**WITNESSETH, THAT WHEREAS**, the agreement between the Owner and the Engineers will provide for the development of a multi-use trail system for safe pedestrian access within the community, with connections to residential and commercial areas as well as connections to neighborhood parks and the existing metro trail network, and

**WHEREAS**, the City anticipates that the multi-use trail connection project construction will occur in spring 2024.

**NOW, THEREFORE**, it is hereby agreed by and between the parties hereto that the City does approve the Agreement. Such agreement shall be subject to the following terms, conditions and stipulations, to wit:

The undersigned do hereby covenant and state this Amendment to the Original Agreement is executed in duplicate as though each were an original and there are no oral agreements that have not been reduced to writing in this instrument.

It is further covenanted and stated there are no other considerations or monies contingent upon or resulting from the execution of this Agreement, nor have any of the above been implied by or for any party to this Agreement.

**IN WITNESS WHEREOF**, the parties have hereunto subscribed their names on the date first written above.

**CITY OF CUMMING, IOWA**

ATTEST:

By \_\_\_\_\_

By \_\_\_\_\_

Brent Highfill, Mayor

Nichole Onstot, City Clerk

**VEENSTRA & KIMM, INC.**

ATTEST:

By \_\_\_\_\_

By \_\_\_\_\_

Vice President

## AGREEMENT

### CUMMING, IOWA MULTI-USE TRAIL CONNECTOR PROJECT SOUTH ALIGNMENT PROFESSIONAL ENGINEERING SERVICES

**THIS AGREEMENT**, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the **CITY OF CUMMING, IOWA**, hereinafter referred to as the **Owner** or **City**, party of the first part, and **VEENSTRA & KIMM, INC.**, a corporation organized and existing under the laws of the State of Iowa, party of the second part, hereinafter referred to as the **Engineers**,

**WITNESSETH, THAT WHEREAS**, recent and ongoing development within the City of Cumming includes development of a multi-use trail system for safe pedestrian access within the community with connections to residential and commercial areas as well as connections to neighborhood parks and the existing metro trail network, and

**WHEREAS**, the development of a distribution facility and convenience store west of 50<sup>th</sup> Street will include a multi-use trail system providing trail access to the convenience store, and

**WHEREAS**, the development agreement with the distribution facility includes partial funding for a multi-use trail connection from 50<sup>th</sup> Street to the existing Great Western Trail, and

**WHEREAS**, in an Agreement dated September 12, 2022, the City retained the services of the Engineers to provide design and construction services on the project referred to as the "**Multi-Use Trail Connector Project**", and

**WHEREAS**, near the completion of the design, the City elected to modify the alignment of the Project by relocating the trail on the south side of Cumming Avenue in lieu of the north side of Cumming Avenue as indicated in the Scope of the Project, and

**WHEREAS**, the complete re-alignment of the trail will require a new design for the Project along the new alignment, and require easement preparation and acquisition to acquire the right-of-way and easements necessary for the new trail alignment, and

**WHEREAS**, the City desires to design and construct the multi-use trail connection project along a revised alignment on the south side of Cumming Avenue, with said project being referred to as the **Multi-Use Trail Connector Project – South Alignment**, or **Project**, and

**WHEREAS**, the City has requested the Engineers discontinue professional engineering services under the Agreement dated September 12, 2022 based on the decision to revise the alignment of the project, and

**WHEREAS**, the City desires to retain the services of the Engineers to provide professional engineering services for design and construction services for the new Project alignment, and

**NOW, THEREFORE**, it is hereby agreed by and between the parties hereto that the City does hereby retain the Engineers to act for and represent it in engineering matters on the Project. Such agreement shall be subject to the following terms, conditions and stipulations, to wit:

1. **SCOPE OF PROJECT.** It is understood and agreed the Project shall include the following improvements:
  - a. Design of approximately 2,160 linear feet of 10' wide multi-use trail along the revised alignment corridor on the south side of Cumming Avenue beginning with connection to the existing trail ramp to be constructed on the southeast corner of Cumming Avenue and 50<sup>th</sup> Street, then extending east approximately 1,500 linear feet along the south side of Cumming Avenue within the future 60' right-of-way, then extending south approximately 360 linear feet along an existing sanitary sewer easement, then extending east approximately 300 linear feet along an existing sanitary sewer easement, with connection to the existing Great Western Trail on the south side of the existing two houses on Cumming Avenue on the west side of the Great Western Trail.
  - b. Preparation of easements and easement acquisition services for the Project.
2. **DESIGN SURVEYS.** The Engineers shall undertake necessary topographic surveys for the design of the Project. The Engineers shall undertake sufficient survey to allow it to prepare easement plats and descriptions for the acquisition of the necessary temporary and permanent easements for construction of the Project.
3. **DESIGN CONFERENCES AND REPORTS.** The Engineers shall attend such design conferences with the City as may be necessary to make decisions as to the details of design of the Project. The Engineers shall make periodic progress reports to the City staff, as necessary.
4. **CONSULTATION ON DESIGN CONCEPT.** The Engineers during the course of the preliminary design shall consult with the City for a final determination of the design concept and location.
5. **PLANS AND SPECIFICATIONS.** The Engineers shall prepare such detailed plans and specifications as are reasonably necessary and desirable for construction of the Project. The plans and specifications shall describe in detail the work to be done, materials to be used, and the location and extent of the construction required. Three (3) sets of final plans and specifications shall be submitted to the City.

- 6. PLANS AND SPECIFICATIONS FOR BIDDERS.** The Engineers shall provide and distribute plans and specifications for bidders. In accordance with the provisions of the Code of Iowa the plans and specifications are to be provided and distributed to the bidders at no cost. In accordance with the provisions of the Code of Iowa the City shall reimburse the Engineers the actual cost for the plans and specifications and distribution thereof. The cost of plans and specifications and distribution of plans and specifications shall be in addition to the fees set forth herein for enumerated services.
- 7. ESTIMATE OF COST.** The Engineers shall prepare an estimate of cost for the construction contract. The estimate of cost shall be based on the Engineers' best knowledge at the time of preparation of the estimate of cost. The Engineers shall not be responsible if the construction contract awarded for the Project varies from the Engineers' estimate of cost. The Engineers shall advise and assist the City, if necessary, in adjusting the scope and extent of the Project to allow the Project to be constructed within available budget limitations.
- 8. ASSESSMENT PLATS AND SCHEDULES.** It is understood and agreed assessment plats and schedules shall not be a part of the services under this Agreement.
- 9. EASEMENTS.** The Engineers shall identify and prepare the necessary easements for construction of the Project. Services for acquisition of easements are described below and a part of the services under this Agreement.
- 10. EASEMENT ACQUISITION SERVICES.**

  - a. The Engineers shall provide easement acquisition services for up to 3 (three) parcels for the Project based on the construction easements prepared under this agreement. The easement acquisition services shall include preparation of compensation estimates based on assessed value of land, negotiations with property owners for final easement document preparation, execution and transmittal to the City.
  - b. The Engineer shall make a minimum of two personal and private contacts with each property owner or their representative to explain the effect of the acquisition, answer questions, make a written offer, consider counteroffers and to make approved revised offers for settlement. Non-resident property owners shall be contacted by certified mail or registered mail and by telephone, if possible.



- c. It is anticipated that the property easements will have been acquired within 30 days after a written offer has been sent or delivered to the owner and tenant. Negotiations shall be considered complete upon either acceptance of the offer by the property owner, acceptance of a revised settlement offer by the property owner, the property owner fails or refuses to sign the offer or revised settlement offer after three contacts have been made following the initial presentation of the offer, or in the judgement of the Engineer, the negotiations have reached an impasse.
  - d. The Engineer shall notify the City of every parcel on which negotiations have reached an impasse or which cannot be acquired by negotiated agreement. The Engineer shall provide the City or City Attorney all records of contacts and negotiations to begin documentation for condemnation.
  - e. Upon written direction from the City or City Attorney, the Engineer shall be available to provide extended negotiations to continue to negotiate an easement prior to condemnation after notice has been sent that condemnation is being prepared or after the notice of condemnation has been served. Extended negotiations prior to condemnation are not included in the scope of services of this Agreement and will be provided at the Engineer's standard hourly rates.
  - f. Services associated with property appraisals, title research to obtain Certificate of Title, condemnation or other legal services are not included as a part of the services under this Agreement. Further assistance with these services can be provided by the Engineer after written request by the City or City Attorney at the Engineer's standard hourly rates plus expenses.
- 11. PERMITS.** The Engineers shall assist the City in obtaining necessary permits for construction of the Project. The City shall be responsible for the payment of permit fees.
- 12. ADVERTISEMENT FOR BIDS.** The Engineers shall assist in the preparation of notice to bidders and shall provide plans and specifications for prospective bidders to approved contract plan rooms and other construction document depositories.
- 13. BID OPENING AND AWARD OF CONTRACT.** The Engineers shall have a representative present when bids and proposals are opened for the construction contract, and shall prepare a tabulation of bids for the City and shall advise the City in making award of contract by providing a written recommendation to award contract. After award of contract is made, the Engineers shall assist in the preparation of the necessary contract documents. During the bidding phase, the Engineers shall advise the City of the responsiveness of each proposal submitted. The Engineers shall not be responsible for advising the City as to the responsibility of any bidder.

**14. PRECONSTRUCTION CONFERENCE.** The Engineers shall conduct a preconstruction conference following award of the construction contract. Said conference to be attended by representatives of the City, the Engineers, the Contractor, and utility companies affected by the Project. At this conference a detailed construction schedule will be determined.

**15. GENERAL SERVICES DURING CONSTRUCTION.** The Engineers shall provide general services during construction including, but not limited to, the following:

- a. Establishment of benchmark and/or baseline to permit start of construction work.
- b. Consult with and advise Owner.
- c. Coordinate work of testing laboratories for concrete and moisture density tests.
- d. Assist in interpretation of plans and specifications.
- e. Review shop drawings and data of manufacturers.
- f. Process and certify payment estimates of the Contractor to Owner.
- g. Prepare and process necessary change orders or modifications to the construction contract.
- h. Make routine and special trips to the Project site as required.
- i. Make final reviews after construction contracts are completed to determine that the construction complies with the plans and specifications and certify that the reviews were made and that to the best of the knowledge and belief of the Engineers, the work on the contracts has been substantially completed.
- j. Provide the City with a reproducible set of plans showing final construction. One hardcopy (full size) and one electronic copy will be provided.

**16. RESIDENT REVIEW AND CONSTRUCTION STAKING SERVICES.**

The Engineers shall provide resident review and construction staking during construction including, but not limited to, the following:

- a. Provide construction staking as necessary to include the establishment of required benchmarks and baselines for locations, elevations and grades of construction.
- b. Provide resident review services understood to include the detailed observation and review of work of the Contractors and materials to assure compliance with the plans and specifications.

- c. The Engineers shall provide resident review services by assigning resident engineers and/or engineering technicians to the Project for such periods reasonably required to insure proper review of the construction work. On-site review shall take place on a regular basis during construction work on the Project.
- 17. FINAL REVIEW.** The Engineers shall make a final review of the Project after construction is completed to determine the construction substantially complies with the plans and specifications. The Engineers shall certify the completion of the work to the City when construction substantially complies with the plans and specifications.
- 18. COMPENSATION.** The City shall compensate the Engineers for their services by payment of the following fees:
- a. For services under this Agreement, a fee on the basis of the standard hourly fees for the time the Engineers' personnel are actually engaged in the performance of the work, plus direct out-of-pocket costs incurred by personnel who are actually engaged in the work, plus direct costs incurred by the Engineers for work associated with the Project.
  - b. The total fee for design services as set forth in **2. DESIGN SURVEYS** through **13. BID OPENING AND AWARD OF CONTRACT**, excluding **10. EASEMENT ACQUISITION SERVICES** shall not exceed the sum of Eighteen Thousand Nine Hundred Dollars (\$18,900).
  - c. For the scope of services set forth in **10. EASEMENT ACQUISITION SERVICES**, a fee on the basis of the standard hourly fees for the time the Engineers' personnel are actually engaged in the performance of the work, plus direct out-of-pocket costs incurred by personnel who are actually engaged in the work, plus direct costs incurred by the Engineers for work associated with the Project shall not exceed the sum of Eight Thousand Two Hundred Dollars (\$8,200).
  - d. The total fee for engineering services during construction as set forth in **14. PRECONSTRUCTION CONFERENCE**, **15. GENERAL SERVICES DURING CONSTRUCTION**, and **17. FINAL REVIEW** shall not exceed the sum of Nine Thousand Eight Hundred Dollars (\$9,800).
  - e. The total fee for engineering services during construction as set forth in **16. RESIDENT REVIEW AND CONSTRUCTION STAKING SERVICES** shall not exceed the sum of Nineteen Thousand Five Hundred Dollars (\$19,500). The fee for resident review services is based on a maximum of three hundred ninety (200) hours of resident review based on standard hourly fees.

- f. The Owner shall compensate the Engineers separately for the cost of plans and distribution of plans as set forth in **6. PLANS AND SPECIFICATIONS FOR BIDDERS** above and as provided in Senate File 2389. The reimbursement of the cost of plans and distribution of plans as required under Senate File 2389 is not included in the other fees for services set forth under this Agreement.
- g. The maximum fee for engineering services during construction shall be based on providing services during the original construction contract period provided to the construction contractor. Services set forth under the compensation level in this part of the Agreement shall not include services beyond the contract completion date. Services beyond the original contract completion date, whether extended by the City or by the construction contractor, shall be considered Extra Work.

**19. PAYMENT.** The fees shall be due and payable as follows:

- a. For design and preparation of the plans and specifications, and for easement preparation services, the fee shall be due and payable monthly.
- b. For general services during construction, resident review and final review, the fee shall be due and payable monthly.

**20. LEGAL SERVICES.** The City shall provide the services of the City Attorney in legal matters pertaining to the Project. The Engineers shall cooperate with said attorney and shall comply with his requirements as to form of contract documents and procedures relative to them.

**21. SERVICES NOT INCLUDED.** The above-stated fees do not include compensation for the following items:

- a. The Engineers shall determine the desirable location of any geotechnical investigation and soil borings required for design. The City shall contract for and provide the recommended geotechnical services and compensate the geotechnical consultant directly.
- b. If after the plans and specifications are completed and approved by the City, the Engineers are required to change plans and specifications because of changes made by the City, the Engineers shall receive additional compensation for such changes which shall be based upon standard hourly fees plus expenses for personnel engaged in performance of the work associated with making the required changes.
- c. Services associated with condemnation proceedings.
- d. Services associated with soil or groundwater pollution testing and abatement.
- e. Services associated with historical/archaeological investigations.

- f. Services associated with exploratory excavation to locate utilities and pipelines.
  - g. Services associated with special assessments.
  - h. Services associated with arbitration or litigation arising out of or in conjunction with the construction contract awarded by the City of Cumming for construction of the Project.
  - i. Services associated with preparing plans, specifications and bidding documents for more than one construction contract.
- 22. CHANGES AND EXTRA WORK.** The above-stated fees cover the specific services as outlined in this Agreement. If the City requires additional services of the Engineers in connection with the Project, the Engineers shall receive additional compensation for changes which shall be based upon the standard hourly fees plus expenses of the personnel engaged in the performance of the work. The method of compensation for authorized Extra Work shall be mutually agreed upon between the City and Engineers at the time the work shall be authorized. Compensation for any easement services shall be based on the standard hourly fees of the Engineers plus expenses incurred.
- 23. TIME OF COMPLETION.** The Engineers shall complete the work outlined in this Agreement within a time mutually agreed upon by the City and Engineers.
- 24. TERMINATION.** Should the City abandon the Project, or any element of the Project before the Engineers have completed their work, the Engineers shall be paid for the work and services performed to the date of termination of that portion of the Project. Prior to the termination of any element of the Project, the Engineers shall advise the City as to the cost-effectiveness of abandonment of the design at that point in time of that portion of the Project.
- 25. ASSISTANTS.** It is understood and agreed that the employment of the Engineers by the City for the purposes aforesaid shall be exclusive, but the Engineers shall have the right to employ such assistants as they may deem proper in the performance of the work.
- 26. ASSIGNMENT.** This Agreement and each and every portion thereof shall be binding upon the successors and the assigns of the parties hereto.

The undersigned do hereby covenant and state this Agreement is executed in duplicate as though each were an original and there are no oral agreements that have not been reduced to writing in this instrument.

It is further covenanted and stated there are no other considerations or monies contingent upon or resulting from the execution of this Agreement, nor have any of the above been implied by or for any party to this Agreement.

**IN WITNESS WHEREOF**, the parties have hereunto subscribed their names on the date first written above.

**CITY OF CUMMING, IOWA**


ATTEST:

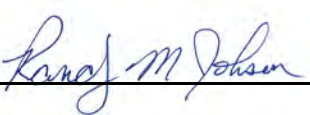
By \_\_\_\_\_  
Mayor

By \_\_\_\_\_  
City Clerk

**VEENSTRA & KIMM, INC.**

ATTEST:

By  \_\_\_\_\_  
Vice President

By  \_\_\_\_\_

**RESOLUTION NO. 2023-51**  
**City of Cumming**

**WHEREAS**, City Council approved Contract with Absolute Construction, Inc DBA Absolute Group on February 13<sup>th</sup>, 2023 by resolution 2023-10 for the Cumming Avenue and Paving Project (“The Project”); and

**WHEREAS**, Change Order #4 in the amount of \$3,170.50 has been reviewed and recommended for approval by Veenstra & Kim, Inc and Shive Hattery; and

**WHEREAS**, The Change Order is for the cost to remove and reinstall two traffic signs on Cumming Avenue and to provide for the connection of subdrains to the storm sewer.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CUMMING, IOWA AS FOLLOWS:**

Change Order in the amount of \$ 3,170.50 is hereby approved.

**PASSED AND APPROVED** this 24<sup>th</sup> day of July, 2023.

\_\_\_\_\_  
Brent Highfill, Mayor

ATTEST:

\_\_\_\_\_  
Nichole Onstot, City Clerk

<b>ROLL CALL VOTE:</b>	<b>Aye</b>	<b>Nay</b>	<b>Abstain</b>	
<b>Absent</b> Cackler	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Goode	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Hungerford	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ochanpaugh	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Squier	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



**VEENSTRA & KIMM INC.**

3000 Westown Parkway  
West Des Moines, Iowa 50266

515.225.8000 // 800.241.8000  
www.v-k.net

July 19, 2023

Rita Conner  
City Administrator  
City of Cumming  
649 N. 44<sup>th</sup> Street  
P.O. Box 100  
Cumming, Iowa 50061-0100

CUMMING, IOWA  
CUMMING AVENUE WIDENING AND 50<sup>TH</sup> STREET PAVING  
CHANGE ORDER NO. 4

Enclosed are three copies of Change Order No. 4 for the Cumming Avenue Widening and 50<sup>th</sup> Street Paving project. Change No. 4 includes the cost to remove and reinstall two traffic signs on Cumming Avenue and to provide connection of the new pavement subdrains to the storm sewer.

Shive Hattery has reviewed and recommends approval of Change Order No.4. Change Order No. 4 increase the contract amount by \$3,170.55.

Upon approval of Change Order No. 4, please sign all copies of Change Order No. 4 in the space provided. Return one executed copy of the change order to our office and one executed copy to Absolute Group.

If you have any questions or comments, please contact us at 515-225-8000.

VEENSTRA & KIMM, INC.

Randy M. Johnson, P.E.

41241

Enclosures



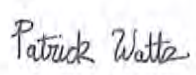

# Change Order

Project: Cumming Avenue Widening and 50<sup>th</sup> Street Paving  
 Date: 07-17-2023  
 RISE Number: RM-1757(601)--9D-91  
 Change Order: 04

The Contract is Changed As Follows:

ITEM	ITEM CODE	DESCRIPTION	UNIT	DIV 01 QNTY	DIV 02 QNTY	TOTAL QNTY	UNIT PRICE	EXTENDED PRICE
83	8040-I-0	Remove and Reinstall Traffic Signs	LS	1.0		1.0	\$ 915.75	\$ 915.75
84	4040-C-1	Subdrain Cleanout, Type A-1	EA	1.0		1.0	\$ 1,000.00	\$ 1,000.00
85	4040-D-1	Subdrain Connection, Inserta-Tee	EA	1.0		1.0	\$ 1,100.00	\$ 1,100.00
11B	4020-A-1	Storm Sewer, Trenched, RCP 24"	LF	1.8		1.8	\$ 86.00	\$ 154.80
							<b>TOTAL</b>	<b>\$ 3,170.55</b>

Original Contract Value	\$ 2,169,846.98
Net Change by Previous Change Order	\$ 60,632.95
Amount Prior to This Change Order	\$ 2,230,479.93
Amount of this Change Order	\$ 3,170.55
Value of Contract including This Change Order	\$ 2,233,650.48
Additional Days added to Contract	0

Engineer Acceptance <b>Shive-Hattery</b>   By: Patrick Watts	Owner Acceptance <b>City of Cumming, IA</b>  By:	Contractor Acceptance <b>Absolute Group</b>   By: Spenser Zegers
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**RESOLUTION 2023-52**  
**City of Cumming**

**WHEREAS**, on February 13, 2023 by Resolution No. 2023-10 City Council approved a contract with Absolute Concrete Construction, Inc. dba Absolute Group for the Cumming Avenue Widening and 50<sup>th</sup> Street Paving Project; and

**WHEREAS**, the contract was in the amount of \$2,169,846.98; and

**WHEREAS**, the second payment application has been received from the contractor in the amount of \$245,386.70 with quantities, work and materials stored to date being detailed in the payment request accompanying this resolution; and

**WHEREAS**, the payment application has been reviewed by Veenstra & Kimm, Inc for work completed between June 1, 2023 and July 14, 2023; and

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of Cumming, Iowa, as follows:

Payment application No. 2 for the Cumming Avenue Widening and Street project in the amount of \$245,386.70 is hereby approved.

**Passed and approved this 24<sup>th</sup> day of July, 2023.**

\_\_\_\_\_  
Brent Highfill, Mayor

Attest:

\_\_\_\_\_  
Nichole Onstot, City Clerk



**VEENSTRA & KIMM INC.**

3000 Westown Parkway  
West Des Moines, Iowa 50266

515.225.8000 // 800.241.8000  
www.v-k.net

July 17, 2023

Rita Conner  
City Administrator  
City of Cumming  
649 N. 44<sup>th</sup> Street  
P.O. Box 100  
Cumming, Iowa 50061-0100

CUMMING, IOWA  
CUMMING AVENUE WIDENING AND 50<sup>TH</sup> STREET PAVING  
PARTIAL PAYMENT NO. 2 (REVISED)

Enclosed are three copies of Partial Payment No. 2 for work completed on the Cumming Avenue Widening and 50<sup>th</sup> Street Paving project for the period June 1, 2023 to July 14, 2023 under the contract between the City of Cumming and Absolute Group. Shive Hattery has checked the pay request and recommends payment to Absolute Group in the amount of \$245,386.70.

Upon approval of Partial Payment No. 2, please sign all copies of Partial Payment No. 2 in the space provided. Return one executed copy of the pay request to our office and one executed copy to Absolute Group with payment.

If you have any questions or comments, please contact us at 515-225-8000.

VEENSTRA & KIMM, INC.

A handwritten signature in blue ink that reads "Randy Johnson".

Randy M. Johnson, P.E.

41241  
Enclosures

Curving Avenue Widening and 5th Street Paving  
RM-1257(B01)-99-91  
Contract

To: City of Cumming  
From: Absolute Group

Line #	Item Code	Description	Unit	Div 1 Quantity (BSE)		Div 2 Quantity (CFT)	Total Quantity	Unit Price	Total Price	Division 1 (BSE)		Previous Quantity	Division 2 (Cft)		Previous Quantity	Current Amount	%	Quantity	Completed Amount	%
				Quantity	Value					Quantity	Value		Quantity	Value						
1	2010-C-0	Excavate and Grubbing	AC	3.2	0.0	0.0	3.2	\$1,000.00	\$3,200.00	0.00%	0.00%	0.0	0.00%	0.00%	\$0.00	0.00%	4.0	\$4,000.00	100.00%	
2	2010-D-1	Topsoil On-site	CY	2347.9	2831.0	0.0	2347.9	\$10.00	\$23,479.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$23,479.00	100.00%
3	2010-E-0	Excavation, Class 10	CY	3690.0	4101.0	4101.0	7791.0	\$6.00	\$46,746.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$46,746.00	100.00%
4	2010-E-0	Subsoil Excavation (Class 10)	CY	450.0	500.0	500.0	950.0	\$75.00	\$71,250.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$71,250.00	100.00%
5	2010-G-0	Subgrade Preparation, 12"	CY	9060.0	1127.0	10187.4	20247.4	\$3.00	\$60,762.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$60,762.00	100.00%
6	2010-H-0	Subbase, Modified, 6"	CY	9060.0	1127.0	10187.4	20247.4	\$12.25	\$125,962.50	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$125,962.50	100.00%
7	2010-M-0	Removal of In-situ Pipe Culvert	LF	284.6	284.6	0.0	284.6	\$20.00	\$5,692.00	\$0.00	0.00%	51.0	\$0.00	0.00%	51.0	\$0.00	0.00%	2020.0	\$5,692.00	100.00%
8	2010-M-0	Granda Subgrade, 6"	LF	2056.4	2068.8	12.4	4125.2	\$16.00	\$66,003.20	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$66,003.20	100.00%
9	4010-A-1	Sanitary Sewer gravity Main, Trenched, PVC Truss, 8"	LF	1220.0	1220.0	0.0	1220.0	\$109.50	\$133,590.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$133,590.00	100.00%
10	4010-A-1	Sanitary Sewer, Trenched, RCP, 18"	LF	1075.9	1289.3	215.4	2365.2	\$65.25	\$154,328.25	\$0.00	0.00%	17.0	\$0.00	0.00%	17.0	\$0.00	0.00%	462.5	\$30,450.75	18.07%
11	4020-A-1	Storm Sewer, Trenched, RCP, 24"	LF	916.3	916.3	0.0	916.3	\$86.00	\$78,801.80	\$0.00	0.00%	381.0	\$0.00	0.00%	381.0	\$0.00	0.00%	662.5	\$55,155.00	35.10%
12	4030-A-1	Storm Sewer, Trenched, RCP, 36"	LF	25.2	25.2	0.0	25.2	\$158.00	\$3,981.60	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	25.2	\$3,981.60	100.00%
13	4030-A-1	Pipe Apron, RCP, 18"	EA	3.0	3.0	0.0	3.0	\$27,000.00	\$81,000.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	1.0	\$27,000.00	33.33%
14	4030-A-0	Pipe Apron Guard, 18"	EA	3.0	3.0	0.0	3.0	\$3,015.00	\$9,045.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$9,045.00	100.00%
15	4030-A-0	Pipe Apron Guard, 24"	EA	3.0	3.0	0.0	3.0	\$1,000.00	\$3,000.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$3,000.00	100.00%
16	4030-A-0	Subdrain Outlets	EA	2.0	2.0	0.0	2.0	\$1,245.00	\$2,490.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	1.0	\$1,245.00	50.00%
17	4030-A-0	Subdrain Connections	EA	5.0	4492.5	5563.0	10055.5	\$20.50	\$206,637.75	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	1298.0	\$26,609.00	26.63%
18	4030-A-0	Subdrain Connections	EA	15.0	19.0	4.0	38.0	\$390.00	\$14,820.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$14,820.00	100.00%
19	4030-A-0	Subdrain Connections	EA	1.0	1.0	1.0	3.0	\$4,050.00	\$12,150.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	8.0	\$31,110.00	53.33%
20	4030-A-0	Subdrain Connections	EA	1.0	1.0	1.0	3.0	\$675.00	\$2,025.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$2,025.00	100.00%
21	4030-A-0	Subdrain Connections	EA	1.0	1.0	1.0	3.0	\$450.00	\$1,350.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$1,350.00	100.00%
22	4030-A-0	Subdrain Connections	EA	3.0	3.0	3.0	9.0	\$9,485.00	\$85,365.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$85,365.00	100.00%
23	4030-A-0	Subdrain Connections	EA	4.0	4.0	4.0	12.0	\$6,485.00	\$77,820.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$77,820.00	100.00%
24	4030-A-0	Subdrain Connections	EA	3.0	3.0	3.0	9.0	\$6,935.00	\$62,415.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$62,415.00	100.00%
25	4030-A-0	Subdrain Connections	EA	2.0	2.0	2.0	6.0	\$6,820.00	\$40,920.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$40,920.00	100.00%
26	4030-A-0	Subdrain Connections	EA	2.0	2.0	2.0	6.0	\$7,175.00	\$43,050.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$43,050.00	100.00%
27	4030-A-0	Subdrain Connections	EA	3.0	3.0	3.0	9.0	\$9,685.00	\$87,165.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$87,165.00	100.00%
28	4030-A-0	Subdrain Connections	EA	1.0	1.0	1.0	3.0	\$5,625.00	\$16,875.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$16,875.00	100.00%
29	4030-A-0	Subdrain Connections	EA	1.0	1.0	1.0	3.0	\$5,875.00	\$17,625.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$17,625.00	100.00%
30	4030-A-0	Subdrain Connections	EA	1.0	1.0	1.0	3.0	\$6,025.00	\$18,075.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$18,075.00	100.00%
31	4030-A-0	Subdrain Connections	EA	1.0	1.0	1.0	3.0	\$8,025.00	\$24,075.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$24,075.00	100.00%
32	4030-A-0	Subdrain Connections	EA	1.0	1.0	1.0	3.0	\$8,025.00	\$24,075.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$24,075.00	100.00%
33	4030-A-0	Subdrain Connections	EA	1.0	1.0	1.0	3.0	\$8,025.00	\$24,075.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$24,075.00	100.00%
34	4030-A-0	Subdrain Connections	EA	1.0	1.0	1.0	3.0	\$8,025.00	\$24,075.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$24,075.00	100.00%
35	4030-A-0	Subdrain Connections	EA	1.0	1.0	1.0	3.0	\$8,025.00	\$24,075.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$24,075.00	100.00%
36	4030-A-0	Subdrain Connections	EA	1.0	1.0	1.0	3.0	\$8,025.00	\$24,075.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$24,075.00	100.00%
37	4030-A-0	Subdrain Connections	EA	1.0	1.0	1.0	3.0	\$8,025.00	\$24,075.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$24,075.00	100.00%
38	4030-A-0	Subdrain Connections	EA	1.0	1.0	1.0	3.0	\$8,025.00	\$24,075.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$24,075.00	100.00%
39	4030-A-0	Subdrain Connections	EA	1.0	1.0	1.0	3.0	\$8,025.00	\$24,075.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$24,075.00	100.00%
40	4030-A-0	Subdrain Connections	EA	1.0	1.0	1.0	3.0	\$8,025.00	\$24,075.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$24,075.00	100.00%
41	4030-A-0	Subdrain Connections	EA	1.0	1.0	1.0	3.0	\$8,025.00	\$24,075.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$24,075.00	100.00%
42	4030-A-0	Subdrain Connections	EA	1.0	1.0	1.0	3.0	\$8,025.00	\$24,075.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$24,075.00	100.00%
43	4030-A-0	Subdrain Connections	EA	1.0	1.0	1.0	3.0	\$8,025.00	\$24,075.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$24,075.00	100.00%
44	4030-A-0	Subdrain Connections	EA	1.0	1.0	1.0	3.0	\$8,025.00	\$24,075.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$24,075.00	100.00%
45	4030-A-0	Subdrain Connections	EA	1.0	1.0	1.0	3.0	\$8,025.00	\$24,075.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$24,075.00	100.00%
46	4030-A-0	Subdrain Connections	EA	1.0	1.0	1.0	3.0	\$8,025.00	\$24,075.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$24,075.00	100.00%
47	4030-A-0	Subdrain Connections	EA	1.0	1.0	1.0	3.0	\$8,025.00	\$24,075.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$24,075.00	100.00%
48	4030-A-0	Subdrain Connections	EA	1.0	1.0	1.0	3.0	\$8,025.00	\$24,075.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$24,075.00	100.00%
49	4030-A-0	Subdrain Connections	EA	1.0	1.0	1.0	3.0	\$8,025.00	\$24,075.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$24,075.00	100.00%
50	4030-A-0	Subdrain Connections	EA	1.0	1.0	1.0	3.0	\$8,025.00	\$24,075.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$24,075.00	100.00%
51	4030-A-0	Subdrain Connections	EA	1.0	1.0	1.0	3.0	\$8,025.00	\$24,075.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$24,075.00	100.00%
52	4030-A-0	Subdrain Connections	EA	1.0	1.0	1.0	3.0	\$8,025.00	\$24,075.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$24,075.00	100.00%
53	4030-A-0	Subdrain Connections	EA	1.0	1.0	1.0	3.0	\$8,025.00	\$24,075.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$24,075.00	100.00%
54	4030-A-0	Subdrain Connections	EA	1.0	1.0	1.0	3.0	\$8,025.00	\$24,075.00	\$0.00	0.00%	-	\$0.00	0.00%	-	\$0.00	0.00%	-	\$24,075.00	100.00%
55	4030-A-0	Subdrain Connections	EA	1.0	1.0	1.0	3.0	\$8,												

