

COUNCIL ACTION FORM

SUBJECT: **SOUTH GRAND AVENUE EXTENSION PROJECT - LAND ACQUISITION OF EASEMENTS FROM IOWA STATE UNIVERSITY**

BACKGROUND:

The City of Ames is acquiring easements from Iowa State University for the South Grand Avenue extension. Iowa State University owns land that lies west of the Vet Med Trail that is leased for Coldwater Golf Links. **Temporary and permanent easements are for construction of the South Grand Avenue extension roadway embankment, bridge, and realignment of Worrell Creek as it enters Squaw Creek at this location (Phase 2, shown below). These easements were negotiated for an amount of \$11,626.**

The overall project is broken into three phases to allow for flexibility in timing of construction and funding. The phases are:

- 1) S. 5th St extension and the portion of S. Grand Ave from Squaw Creek Drive to S. 5th St (Note: this portion has already been bid and awarded)
- 2) S. Grand Ave South of S. 5th Street (this portion includes two bridges to accommodate Squaw Creek and a box culvert for golf cart passage)
- 3) Reconstruction and widening additional turn lanes at S. Duff Ave and S. 16th St.

The design of this phase (Ph. 2) of the project is nearing completion. The plans have been reviewed by the Iowa DOT and City Staff at both the “preliminary” and “check” plan stages. The final plans are scheduled to be submitted to the Iowa DOT for a January bid letting. The current plan is to begin construction as soon as possible after the contract is awarded.

The overall project is included in the Capital Improvements Plan (CIP) identifies funding from FY 2017/18 and continuing through FY 2019/20. Funding includes \$9,700,000 in G.O. Bonds, \$4,300,000 in MPO/STP Funds, and \$3,450,00 in Federal/State Grant Funds. As noted above, construction is anticipated to commence in FY 2019/20.

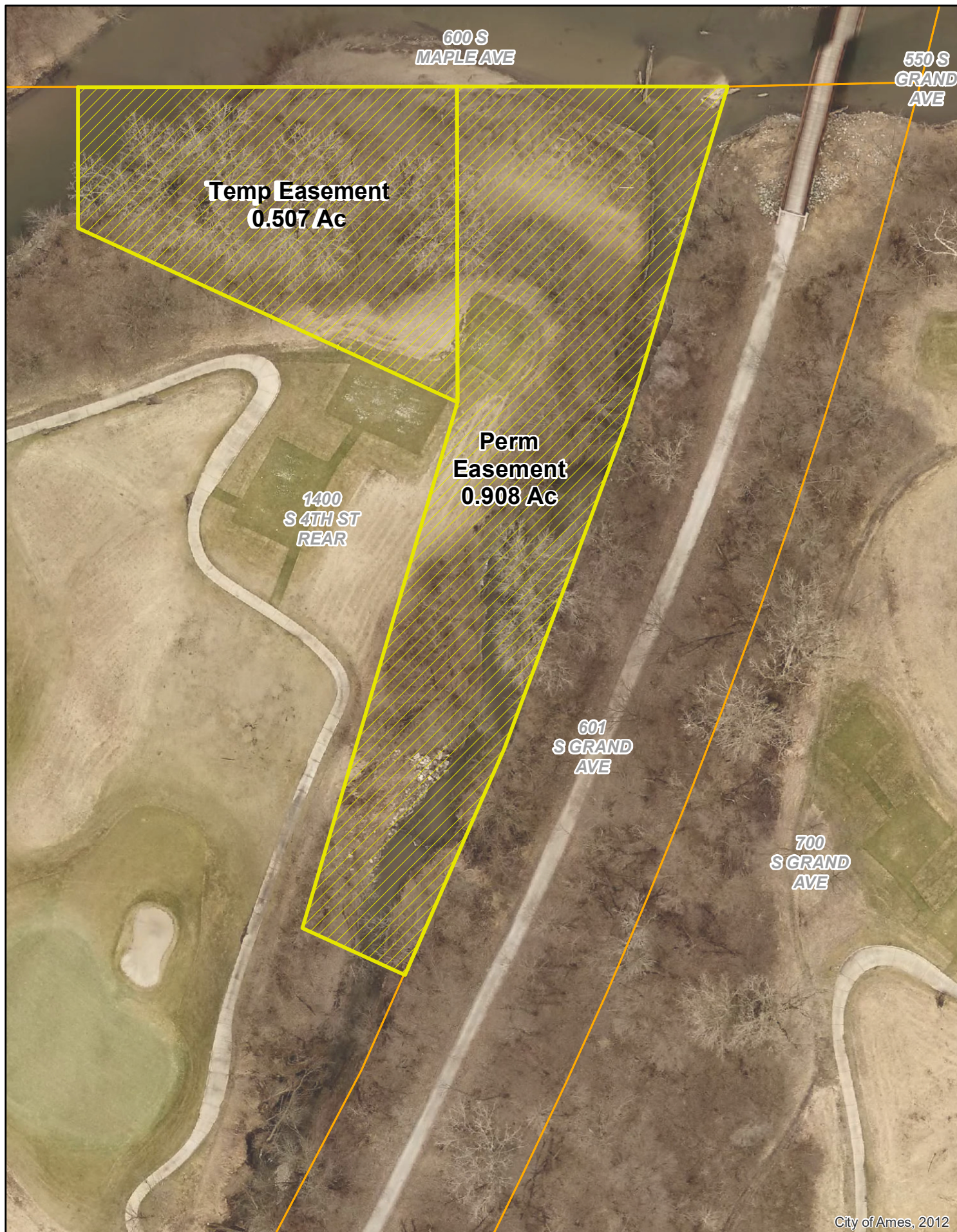
ALTERNATIVES:

1. Approve the easements with Iowa State University for South Grand Avenue Extension project in the amount of \$11,626.
2. Reject the agreement and direct staff to pursue different land acquisition arrangements with Iowa State University.

MANAGER'S RECOMMENDED ACTION:

Approval of the easement agreement with Iowa State University enables the Board of Regents to consider this at their November meeting. Delay or rejection of this agreement could require the redesign of the entire South Grand Avenue project.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1, as noted above.



City of Ames, 2012



PREPARED BY: Mark O. Lambert, Ames City Attorney, 515 Clark Ave., Ames, IA 50010, 515-239-5146
RETURN TO: Paula K. DeAngelo, Deputy Counsel, Iowa State University, 3550 Beardshear, 515 Morrill Road, Ames, Iowa 50011
Legal Description: See pages 10 and 12.

**ROADWAY EASEMENT
CITY OF AMES – IOWA STATE UNIVERSITY – SOUTH GRAND EXTENSION**

This Roadway Easement Agreement is entered into this ____ day of _____, 2019, by and between the Board of Regents, State of Iowa for the use and benefit of Iowa State University of Science and Technology (“Grantor”) and the City of Ames (“Grantee”)

WHEREAS, Grantor is the owner of certain real property located in the City of Ames, Story County, Iowa that is legally described as:

Part of Parcel “W”, Plat of Survey, in Inst. No. 01-08199 recorded in the Story County Recorder’s office now in and forming a part of the City of Ames, Story County, Iowa, more particularly described as follows:

SEE ATTACHED EASEMENT PLATS (depicting the “Property”);

WHEREAS, Grantee desires to construct an extension of roadway known as South Grand Avenue connecting the existing termini near Squaw Creek Drive and South 16th Street.

WHEREAS, the construction of the extension of South Grand Avenue will impact Grantor by constructing a slope from the roadway embankment and realigning the existing channel of a waterway known as Worle Creek (“Project”).

WHEREAS, Grantee desires to widen the public right-of-way to include the slope of the roadway embankment and Grantee desires to make a record of the full extent of the new right-of-way area.

NOW, THEREFORE, Grantor, pursuant to Iowa Code §262.9(8) and in consideration of the payment of \$11,626.00 and other consideration set forth in this Agreement, hereby grants to Grantee both a permanent and a temporary construction easement consisting of the area identified on Exhibit A, subject to the following terms and conditions:

1. Location: The easement granted pursuant to this Agreement shall be located upon and limited to the tract described in the legal description and depicted on the plat of easement documents

marked Exhibit A, which are attached and made part of this Agreement (“Easement Area”).

2. Use: Grantee shall use the Easement Area only for the purpose of constructing, reconstructing, using, maintaining, and repairing the roadway as a public right-of-way, which may, at the Grantee’s option include, but is not limited to, the paved traveled portion of the street, surface water drainage systems, sidewalks or shared use paths, and all appurtenant structures and fixtures. The parties acknowledge that the Easement Area and the roadway will be a public right-of-way under the jurisdiction and regulatory authority of the Grantee and open to use by members of the public, and Grantor and Grantee may use the roadway as other members of the public may use it.
3. Access: Grantee’s entrance upon the Grantor’s Property for the purpose of construction, reconstruction, use, maintenance, and repair of the roadway shall be limited to the Easement Area shown in Exhibit A.
4. Construction: Grantor and Grantee shall each designate at least one representative to serve as its liaison to the other party regarding the initial Project. Grantee shall give notice to Grantor’s representative two weeks before initial construction of the Project is to begin on the Property and shall give a second notice 48 hours before initial construction of the Project is to begin on the Property. Grantee shall submit to Grantor for Grantor’s approval a copy of Grantee’s Project plans for initial construction of the Roadway on the Property. Grantor’s approval shall not be unreasonably withheld. Grantee shall ensure that the Project is constructed in accordance with the approved plans.

Grantor’s property shall not be subjected to liens of any nature by reason of Grantee’s construction, maintenance or repair of the Roadway or by reason of any other act or omission of Grantee, including, but not limited to, mechanic’s and materialman’s liens. Grantee has no power, right or authority to subject Grantor’s property to any mechanic’s or materialman’s lien or claim of lien.

5. Utilities Crossings: All crossings of Grantor’s existing sewers, water lines, electric lines, tile lines, or other existing facilities shall be made in cooperation with and subject to the reasonable specifications of the engineer or other official of Iowa State University of Science and Technology in charge of such installations. If the Easement Area crosses an easement previously granted by Grantor to a utility provider or other entity, prior to engaging in any construction activities in the Easement Area, Grantee shall obtain from the easement holder its written consent to the easement granted to Grantee pursuant to this Agreement and submit to Grantor a copy of the written consent.
6. Restoration: As soon as reasonably possible after construction is complete, weather and season permitting, Grantee shall restore the Easement Area not utilized for the roadway to its natural grade and previous condition or, if reasonably required by the construction, reconstruction, or repair, an improved grade and condition compatible therewith. As part of that effort, during construction Grantee shall remove and stockpile existing topsoil from areas to be excavated. Following construction of the roadway, Grantee shall spread topsoil and seed areas within the Easement Area that are disturbed by the construction and not utilized for the roadway.

7. Liability:

- a. Damage to ISU Property. Grantee shall promptly notify Iowa State University of Science and Technology of any damage to the Easement Area, Property or other real or personal property of Iowa State University of Science and Technology occurring while Grantee is constructing, maintaining or repairing the Roadway. At Grantor's request, Grantee shall either repair or replace the damaged property, reimburse Grantor for reasonable, documented expenses incurred by Grantor to repair or replace the damaged property or compensate Grantor for the loss of the property.
 - b. Maintenance and Repair. As between Grantor and Grantee, Grantee shall be solely responsible for maintaining and repairing the Easement Area, including the Roadway, the Roadway embankment and the relocated Worle Creek, but excluding any driveway aprons within the Easement Area provided for Grantor.
 - c. Third Party Claims. To the extent permitted by Chapter 670 of the Iowa Code and other applicable law, Grantee shall indemnify and hold harmless Iowa State University of Science and Technology, the Board of Regents – State of Iowa, the State of Iowa and their respective officers, employees and agents harmless from any claims, liabilities, damages, fines and expenses arising from the Roadway, use of the Easement Area by Grantee, or from any tort (as defined in Chapter 670 of the Iowa Code) arising from the acts or omissions of Grantee or its officers or employees.
 - d. Insurance. Grantee shall maintain appropriate insurance coverage or self-insure for liabilities that may arise from the activities set forth in the Agreement.
8. Rights Reserved & Limitations: Grantor reserves to itself and to Iowa State University of Science and Technology the right within the Easement Area to grant easements for or to construct sewers, water lines, electric lines, tile lines, or other facilities across or through the Easement Area in a manner that does not interfere with the Roadway and consistent with the fact that the Roadway shall be a part of the municipal street system. Grantor shall not erect or place within the Easement Area any building or other structure or improvement.
9. Consideration: In consideration for the grant of this easement, Grantee shall pay Grantor \$11,626.00 within thirty days of the date the last party executes this Agreement. Grantee shall make the payment payable to Iowa State University and submit the payment to its Interim Senior Vice President for Operations and Finance.
10. Duration: This easement is granted and all rights hereunder shall endure as long as the Grantee continues to use the same for a roadway. Whenever said use shall be discontinued, all rights granted herein shall terminate and revert to the Grantor. If the Property is ever subdivided, the Grantor shall, without cost to Grantee, convey fee title by permanent dedication of the right-of-way to Grantee subject to the approval of the Board of Regents, State of Iowa.
11. Assignment Prohibited: Neither party shall assign its rights in whole or in part to any other party without obtaining the written consent of the other party, which shall not be unreasonably withheld.

12. Temporary Easement: Grantor grants to Grantee a Temporary Construction Easement in the area depicted in Exhibit A solely for the purpose of constructing the Project. The Temporary Construction Easement being granted by Grantor to Grantee shall terminate upon completion of the construction of this project and acceptance of the project by the City Council. Grantee's obligations and liability with respect to the Easement Area shall also apply to the Temporary Construction Easement.
13. Leasehold Interest: Grantor acknowledges that Legacy Golf Associates, Inc. ("Legacy") has transferred to Grantee the leasehold interest that Legacy has in the Property pursuant to a lease between Grantor and Legacy dated February 22, 2001. Grantor consents to the transfer of Legacy's leasehold interest to Grantee. Despite Grantee's leasehold interest in the Property, Grantor and Grantee agree that the terms of this Agreement shall govern Grantee's use of the Property and not the terms of the lease between Grantor and Legacy.

Each and all the above terms, covenants and conditions are of the essence hereof, and Grantee, by accepting this instrument, covenants to comply and perform as so specified.

[Signature pages follow]

IN WITNESS WHEREOF, Grantor and Grantee have executed this instrument by their lawfully designated officials as of the date first written above.

BOARD OF REGENTS, STATE OF IOWA

By: _____
Mark Braun
Executive Director

State of Iowa)
S.S.

County of Polk)

On this _____ day of _____, 2019, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared the executive director of the Board of Regents, State of Iowa, to me personally known, who being by me duly sworn, did say that he is Mark Braun, that the instrument was signed on behalf of and by the authority of the Board of Regents, State of Iowa and that Mark Braun was authorized to execute this instrument by vote of the Board of Regents, State of Iowa at its meeting on the _____ day of _____, 2019, and that execution of this instrument is a voluntary act and deed of the Board of Regents, State of Iowa and of the executive director.

Notary Public in and for Said County
My Commission expires: _____

CITY OF AMES

By _____
John A. Haila
Mayor, City of Ames

Attest:

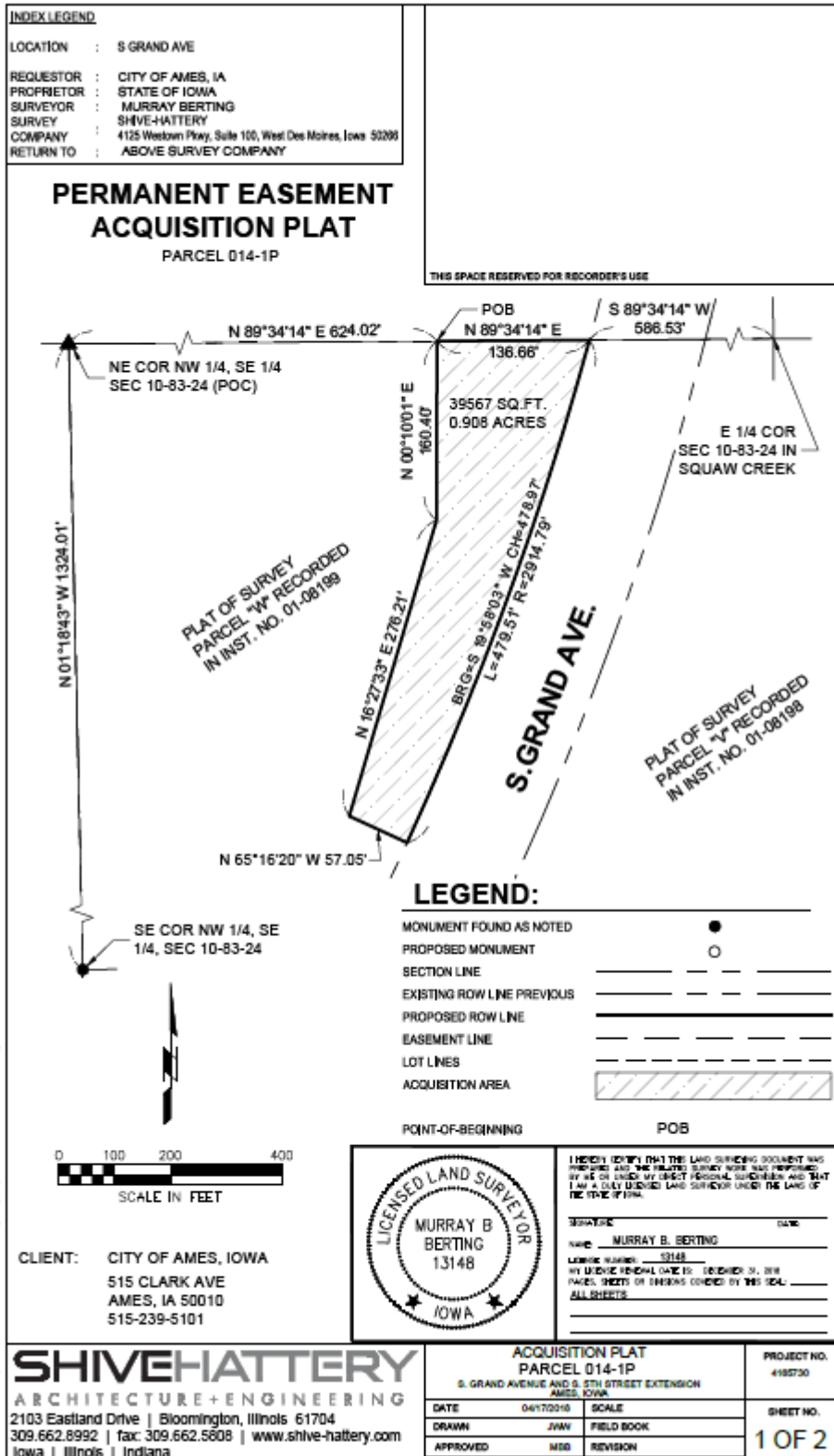
By _____
Diane R. Voss
City Clerk, City of Ames

State of Iowa)
County of Story) S.S.

This instrument was acknowledged before me on _____, 2019, by John A. Haila and Diane R. Voss, as Mayor and City Clerk, respectively, of the City of Ames, Iowa.

Notary Public in and for Said County
My commission expires: _____

EXHIBIT A



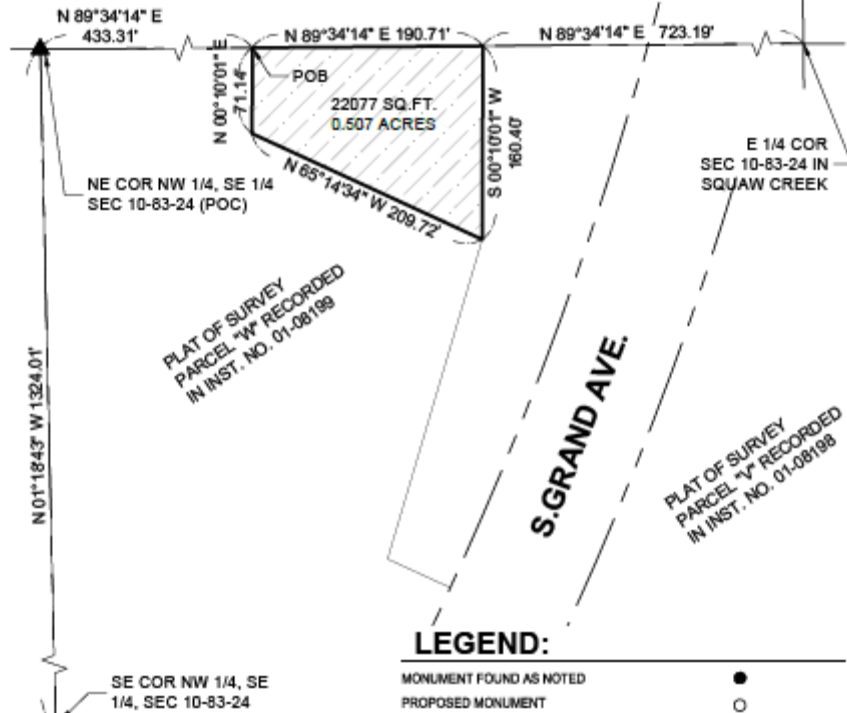
INDEX LEGEND

LOCATION : S GRAND AVE
 REQUESTOR : CITY OF AMES, IA
 PROPRIETOR : STATE OF IOWA
 SURVEYOR : MURRAY BERTING
 SURVEY : SHIVE-HATTERY
 COMPANY : 4125 Westown Pkwy, Suite 100, West Des Moines, Iowa 50260
 RETURN TO : ABOVE SURVEY COMPANY

TEMPORARY EASEMENT ACQUISITION PLAT

PARCEL 014-1T

THIS SPACE RESERVED FOR RECORDER'S USE



CLIENT: CITY OF AMES, IOWA
 515 CLARK AVE
 AMES, IA 50010
 515-239-5101



I HEREBY CERTIFY THAT THE 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 QUALIFIED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF IOWA.

SIGNATURE: MURRAY B. BERTING DATE: 05/17/2018

MY LICENSE NUMBER: 13148

MY LICENSE EXPIRATION DATE IS: 05/17/2021

PAGES: 1 SHEETS: 1 OF 2

SHIVE-HATTERY
 ARCHITECTURE + ENGINEERING
 2103 Eastland Drive | Bloomington, Illinois 61704
 309.662.8992 | fax: 309.662.5808 | www.shive-hattery.com
 Iowa | Illinois | Indiana

| ACQUISITION PLAT PARCEL 014-1T | | PROJECT NO. |
|---|-------------|-------------|
| S. GRAND AVENUE AND S. 5TH STREET EXTENSION AMES, IOWA | | 4185750 |
| DATE: 05/17/2018 | SCALE: | 1 OF 2 |
| DRAWN: JWW | FIELD BOOK: | |
| APPROVED: MB | REVISION: | |

| INDEX LEGEND | | | |
|---|---|--|---------------------------------|
| LOCATION : | S GRAND AVE | | |
| REQUESTOR : | CITY OF AMES, IA | | |
| PROPRIETOR : | STATE OF IOWA | | |
| SURVEYOR : | MURRAY BERTING | | |
| SURVEY : | SHIVE-HATTERY | | |
| COMPANY : | 4125 Woodrow Pkwy, Suite 100, West Des Moines, Iowa 50260 | | |
| RETURN TO : | ABOVE SURVEY COMPANY | | |
| TEMPORARY EASEMENT ACQUISITION PLAT PARCEL 014-1T | | THIS SPACE RESERVED FOR RECORDER'S USE | |
| <p>TEMPORARY EASEMENT LEGAL DESCRIPTION: PARCEL 014-1T PARCEL "W"</p> <p>PART OF PARCEL "W", PLAT OF SURVEY, IN INST. NO. 01-08199 RECORDED IN THE STORY COUNTY RECORDERS OFFICE NOW IN AND FORMING A PART OF THE CITY OF AMES, STORY COUNTY, IOWA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:</p> <p>COMMENCING AT THE NORTHEAST CORNER OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 10, TOWNSHIP 83 NORTH, RANGE 24 WEST OF THE 5TH P.M. IN THE CITY OF AMES, STORY COUNTY, IOWA;</p> <p>THENCE NORTH 89°34'14" EAST, ALONG THE NORTH LINE OF SAID PARCEL "W", FOR A DISTANCE OF 433.31 FEET TO THE POINT-OF-BEGINNING;</p> <p>THENCE CONTINUING NORTH 89°34'14" EAST, ALONG THE NORTH LINE OF SAID PARCEL "W", FOR A DISTANCE OF 190.71 FEET;</p> <p>THENCE SOUTH 00°10'01" WEST FOR A DISTANCE OF 160.40 FEET;</p> <p>THENCE NORTH 65°14'34" WEST FOR A DISTANCE OF 209.72 FEET;</p> <p>THENCE NORTH 00°10'01" EAST FOR A DISTANCE OF 71.14 FEET TO THE POINT-OF-BEGINNING.</p> <p>CONTAINING 22,077 SQ. FT. (0.507 ACRES)</p> | | | |
| SHIVEHATTERY ARCHITECTURE+ENGINEERING 2103 Eastland Drive Bloomington, Illinois 61704 309.662.8992 fax: 309.662.5808 www.shive-hattery.com Iowa Illinois Indiana | | ACQUISITION PLAT PARCEL 014-1T S. GRAND AVENUE AND S. 5TH STREET EXTENSION AMES, IOWA | PROJECT NO. 4185730 |
| | | DATE 04/17/2018 DRAWN JWW APPROVED MSB | SCALE FIELD BOOK REVISION |
| | | SHEET NO. 2 OF 2 | |