City of Hiawatha

Engineering Department

101 Emmons St., Hiawatha Iowa, 52233-1697
PHONE (319) 393-1515 ext. 511 FAX (319) 393-1516

To: **Mayor and City Council** **Date:** **November 12, 2019**

From: **John C Bender PE, City Engineer**

Re: **18th Avenue PCC Widening Project**

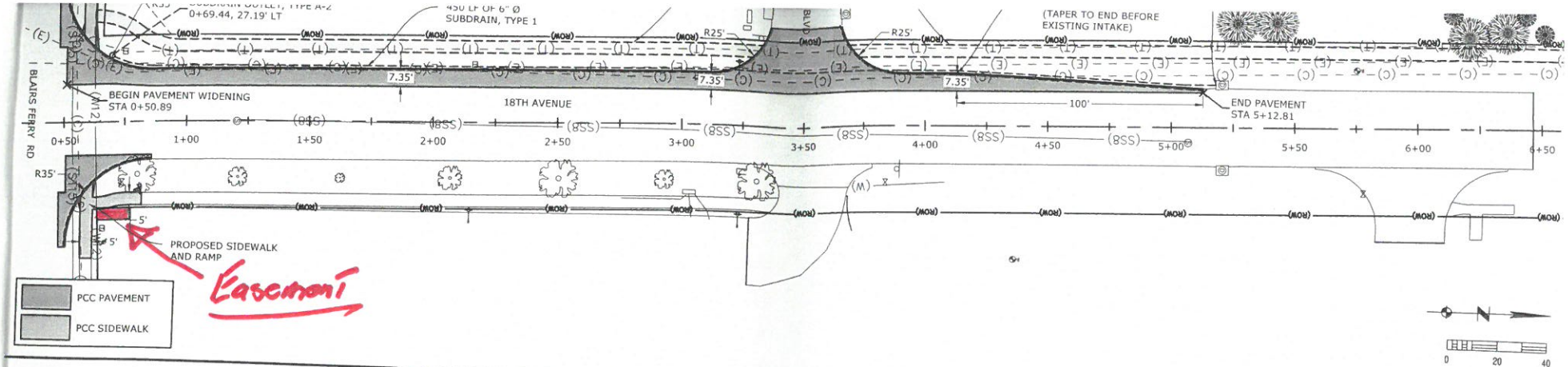
Description: **Permanent Easement approval.**

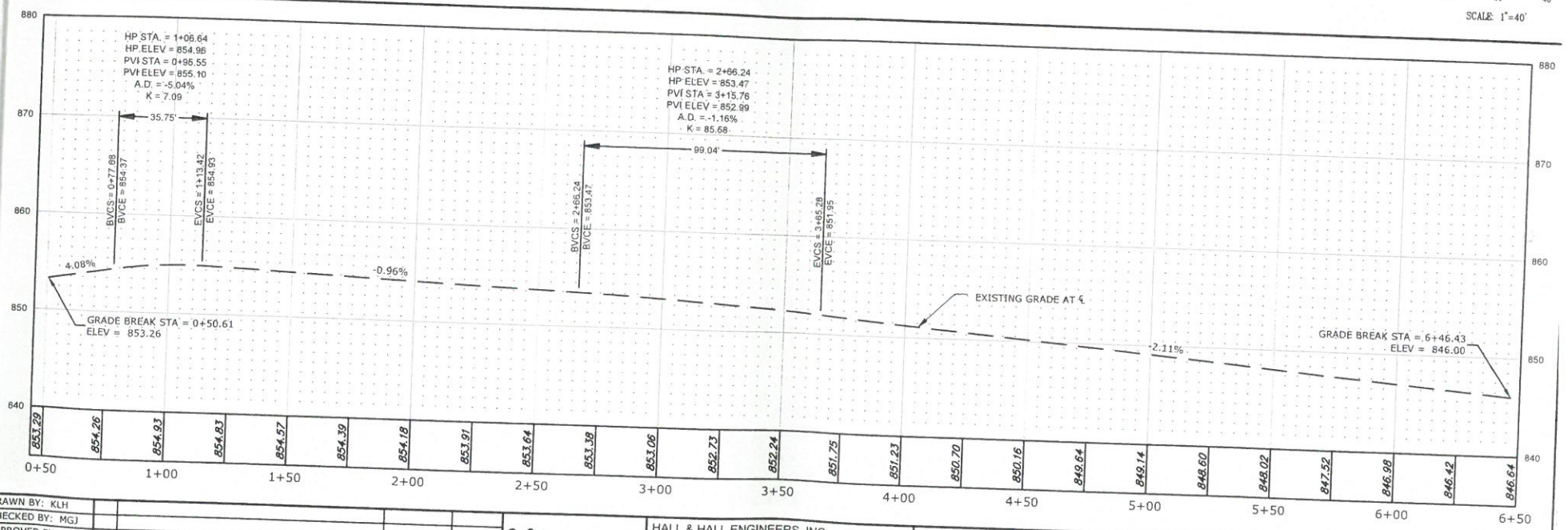
Report:

The widening project of 18th Avenue on the north side of Blairs Ferry Road with contractor, Midwest Concrete of Peosta, requires one small permanent sidewalk easement on the northeast corner of the intersection. We included installing a larger radius on the corner of the intersection in order to accommodate any oversize vehicles that would be turning right from Blairs Ferry Road onto 18th Avenue. This larger radius pushed the ADA sidewalk ramp to the north requiring a small permanent easement on the Mercy property.

We have the easement retuned from the owners and the Council will need to approve the easement in order to have the document recorded. Engineering recommends approving the easement.

Any questions please let me know.





DRAWN BY: KLH				
CHECKED BY: MGJ				
APPROVED BY: MGJ				
DATE: 08-21-2019				
FIELD BOOK: ---	NO.	REVISION DESCRIPTION	APPROVED	DATE

Hiawatha!

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18TH AVENUE PCC PAVEMENT WIDENING

IN THE CITY OF HIAWATHA, LINN COUNTY, IOWA

PAVEMENT PLAN AND PROFILE

SCALE: 1" = 40'

PROJECT NO: 4089-19-2

SHEET D.01

DRAFT

Prepared/Return to City of Hiawatha, Kari Graber, 101 Emmons Street Hiawatha, Iowa 52233. 319-393-1515

RESOLUTION NO. 19-
City Council

RESOLUTION ACCEPTING PERMANENT EASEMENT FOR SIDEWALK ON THE PROPERTY LOCATED AT 1790 BLAIRS FERRY ROAD IN CONNECTION WITH THE 18TH AVENUE PCC PAVEMENT WIDENING PROJECT - AGREEMENT BETWEEN THE CITY OF HIAWATHA AND MERCY PHYSICIAN SERVICES, INC.

WHEREAS, the City of Hiawatha (herein referred to as the City) and Mercy Physician Services, Inc. Grantor of the property located at 1790 Blairs Ferry Road and legally described as follows:

The South 14 feet of the West 5 feet of Lot 1, Reorganized Church of Latter Day Saints First Addition to Hiawatha, Linn County, Iowa

have entered into an agreement for a Permanent Sidewalk Easement, see attached Exhibit 'A' for the purpose of installing sidewalk facilities related to the 18th Avenue PCC Widening Project upon portions of the above property and Deed Holder and Grantor agree to erect no buildings, obstructions, or other improvements upon or under the property covered by said easement without permission by the City, and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HIAWATHA, IOWA, to accept the Permanent Sidewalk Easement as described in the agreement between the City of Hiawatha and Mercy Physician Services Grantor upon portions of property legally described above and further authorize the Mayor and City Clerk to execute the Permanent Easement for Sidewalk, and Easement Agreement be recorded in the Office of the Linn County Recorder and thereafter filed with the City Engineer.

AYES:
NAYS:

PASSED AND APPROVED this 20th day of November, 2019.

PERMANENT SIDEWALK EASEMENT

THIS PERMANENT SIDEWALK EASEMENT (the "Easement") is made this _____ day of _____ 2019, by Mercy Physician Services, Inc. (also referred to as "GRANTOR") and the City of Hiawatha, Iowa (hereinafter referred to as the "CITY"). The GRANTOR and the CITY may hereinafter be referred to collectively as the "PARTIES".

WHEREAS, GRANTOR, holds title to the following real property legally described as follows:

Lot 1, Reorganized Church of the Latter Day Saints First Addition to the City of Hiawatha, Linn County, Iowa (the "Real Property"), and

WHEREAS, the GRANTOR, is the owner in fee simple of the Real Property known and described as set out above, and

WHEREAS, the GRANTOR has agreed to give the City an easement for the purpose of installing public sidewalk facilities ("Sidewalk"), as more fully set forth below.

NOW THEREFORE, for the consideration of the mutual promises made below, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the PARTIES, agree as follows:

1. The GRANTOR hereby grants unto the CITY a permanent easement over and upon the South 14 feet of the West 5 feet of the Real Property, as shown and depicted on the "Permanent Sidewalk Easement" survey drawing, attached hereto as Exhibit "A" and incorporated herein reference (the "Easement"), for purposes of installing and maintaining the Sidewalk.

2. The CITY agrees to construct and maintain the Sidewalk at it sole cost and expense and will be responsible at all times for any and all repairs, upkeep, maintenance or reconstruction thereof as may be necessary from time to time, including without limitation any snow and ice removal or trash removal in the Easement area.

3. The CITY hereby agrees to indemnify and hold GRANTOR harmless from and against any and all liability, claims, causes of action, costs or expenses, including without limitation attorney fees and expenses, arising out of or in any manner related to the Easement, the construction and maintenance of the Sidewalk on the Real Property or the use of Easement area by members of the public.

4. At any such time as the Easement area shall no longer be used by the City of Hiawatha for purposes intended in this Agreement, then the Easement shall terminate and be of no further force or effect.

5. This Agreement shall be binding upon the parties hereto and their successors and assigns.

6. The PARTIES agree that this Agreement shall be filed with the Office of the Linn County Recorder.

City of Hiawatha, Iowa

By: _____

Bill Bennett, Mayor

Attest: _____
Kari Graber, City Clerk

Mercy Physician Services, Inc.

By: _____

Title: President

STATE OF IOWA)
) ss:
COUNTY OF LINN)

This instrument was acknowledged before me on the 17th day of October, 2019 by Tim Quinn, MD as President of Mercy Physician Services, Inc.

Lori K Bush
Notary Public in and for the State of Iowa

LORI K BUSH
COMMISSION NUMBER 128051
MY COMMISSION EXPIRES
4-20-22

STATE OF IOWA)
) ss:
COUNTY OF LINN)

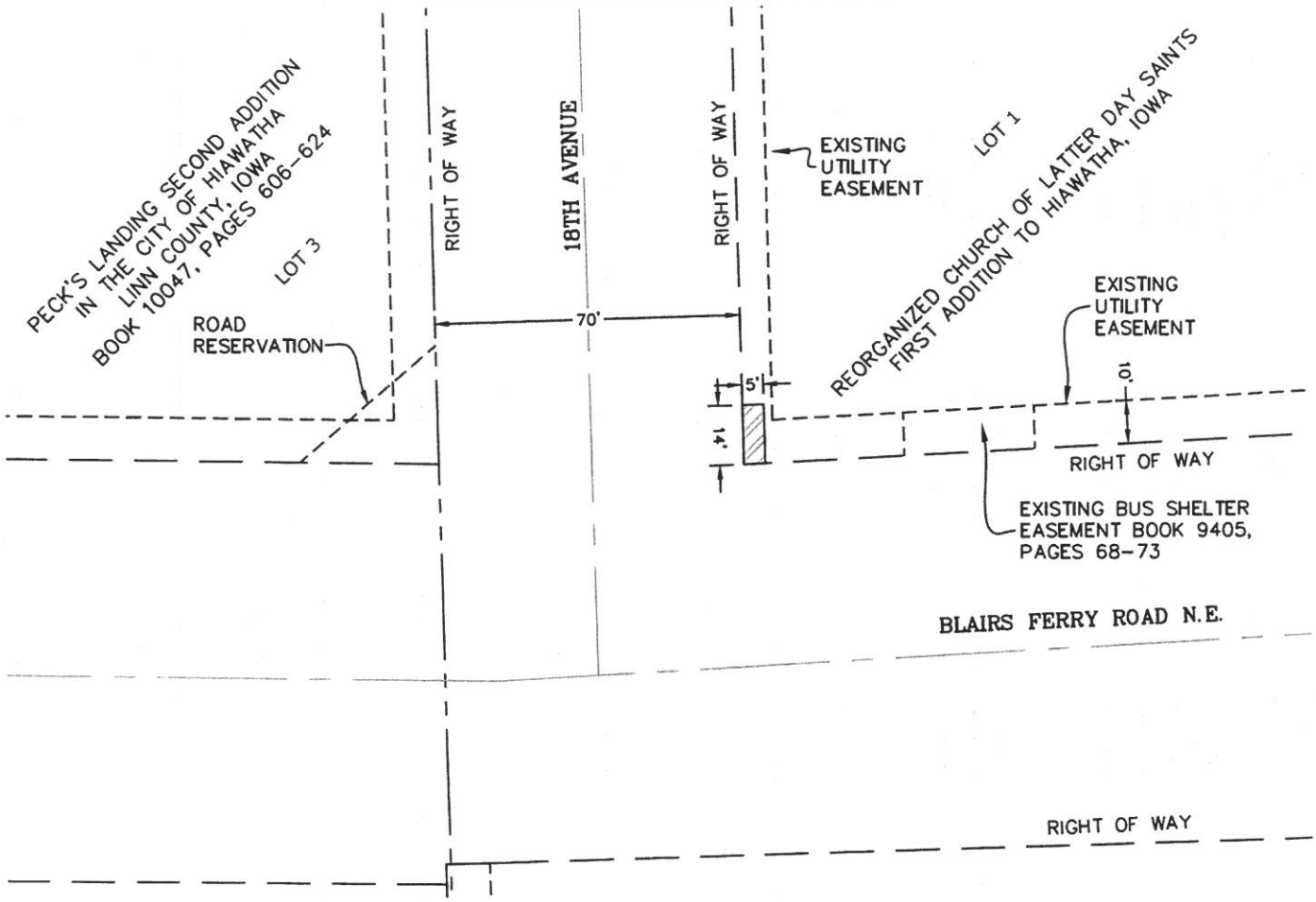
On this _____ day of _____, 2019 before me a Notary Public in and for said County, Bill Bennett and Kari Graber to me personally known, who being duly sworn, did say that they are the Mayor and the City Clerk, respectively, of the City of Hiawatha, Iowa, a Municipal Corporation created and existing under the laws of the State of Iowa, and that the seal affixed to the foregoing instrument is the seal of said municipal corporation by authority and resolution of its City Council and said Mayor and City Clerk acknowledged said instrument to be free act and deed of said municipal corporation by it and by them voluntarily executed.

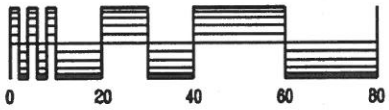
_____
Notary Public in and for the State of Iowa

EXHIBIT A

PERMANENT SIDEWALK EASEMENT

PART OF LOT 1, REORGANIZED CHURCH OF LATTER DAY SAINTS FIRST ADDITION, HIAWATHA, LINN COUNTY, IOWA





GRAPHIC SCALE IN FEET
SCALE: 1"=40'

SURVEY PREPARED FOR:

CITY OF HIAWATHA, IOWA

OWNER:

MERCY PHYSICIAN SERVICES INC.

ENGINEER:

HALL & HALL ENGINEERS INC.
1860 BOYSON ROAD
HIAWATHA, IOWA 52233
319-362-9548

LEGAL DESCRIPTION:

THE SOUTH 14 FEET OF THE WEST 5 FEET OF LOT 1, REORGANIZED CHURCH OF LATTER DAY SAINTS FIRST ADDITION TO HIAWATHA, IOWA AS RECORDED IN BOOK 3353, PAGES 430-436 IN THE OFFICE OF THE LINN COUNTY, IOWA RECORDER.

SAID EASEMENT CONTAINS 70 SQ.FT., SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

SURVEY LEGEND

- EXISTING EASEMENT LINE
- EXISTING LOT LINE
- NEW EASEMENT LINE
- SECTION LINE
- CENTERLINE

Project Number: 4089-19-02	Sheet: 1 of 1	Scale: 1"=40'	Field Book No:	Date: 9/20/19	Sheet Title: EXHIBIT A PERMANENT SIDEWALK EASEMENT PART OF LOT 1, REORGANIZED CHURCH OF LATTER DAY SAINTS FIRST ADDITION, HIAWATHA, LINN COUNTY, IOWA

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Designed by: | Drawn by: DLK | Checked by:

CAD File: I:\projects\4000\4089-19-2 18th Ave Widening\DWG\Plats\Easements and Exhibits\4089-19-02 SIDEWALK EASEMENT 302019.dwg Date Plotted : Oct 02, 2019 - 3:41pm Plotted By : SUSAN-FORINASH

EXHIBIT A

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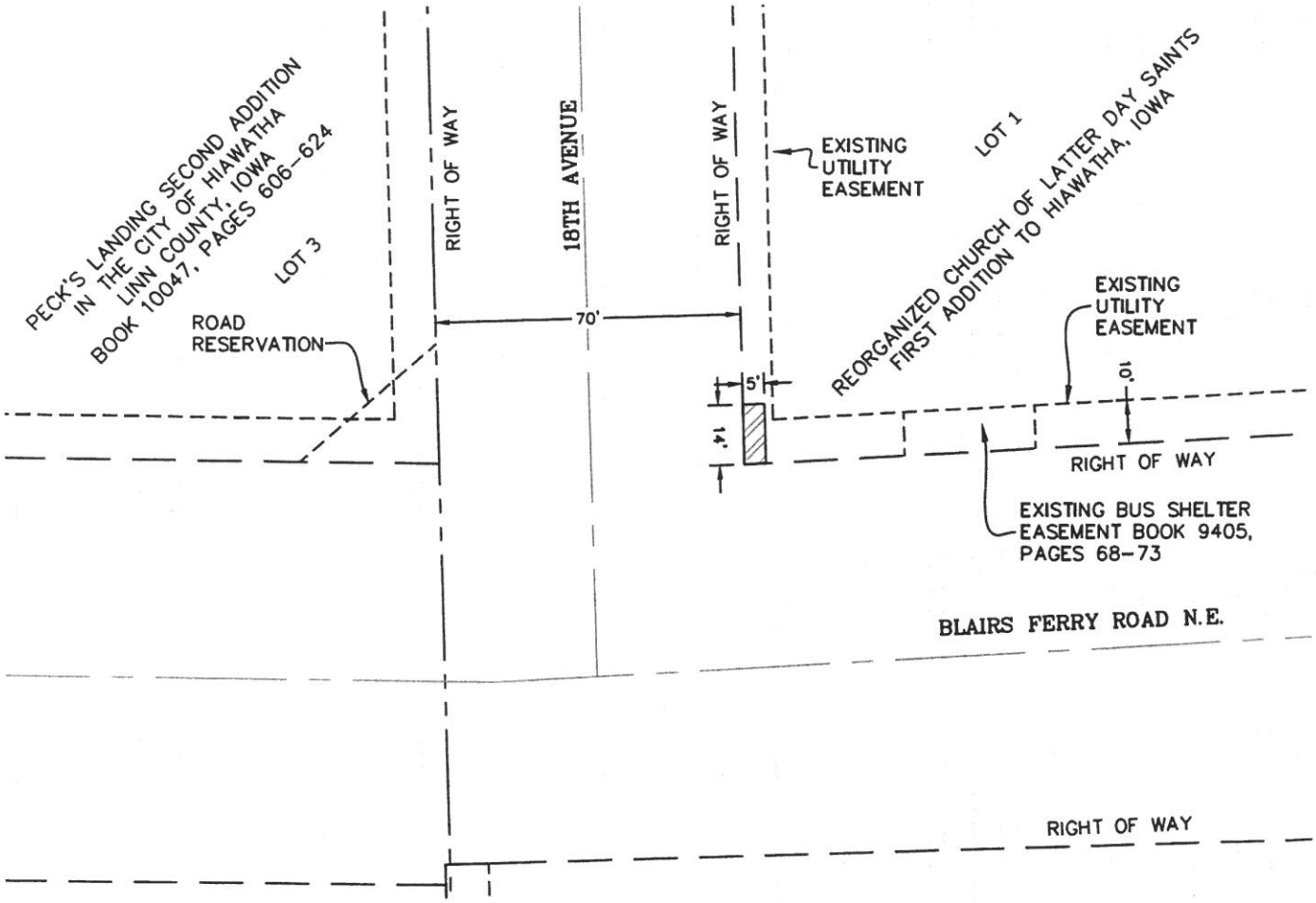
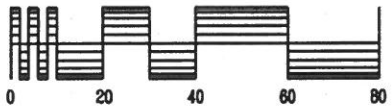
PART OF LOT 1, REORGANIZED CHURCH OF LATTER DAY SAINTS FIRST ADDITION, HIAWATHA, LINN COUNTY, IOWA





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Designed by: | Drawn by: DLK | Checked by:

CAD File: I:\projects\4000\4089-19-2 18th Ave Widening\DWG\Plats\Easements and Exhibits\4089-19-02 SIDEWALK EASEMENT 3D2019.dwg Date Plotted : Oct 02, 2019 - 9:29am Plotted By : DLK