

Recorded: 9/29/2023 at 9:09:07.0 AM
County Recording Fee: \$47.00
Iowa E-Filing Fee: \$3.00
Combined Fee: \$50.00
Revenue Tax:
Delaware County, Iowa
Daneen Schindler RECORDER
BK: 2023 PG: 2446

Prepared By & Return To: Allyssa Myers, Right of Way Bureau, 800 Lincoln Way, Ames, IA 50010, 515-239-1757

In the Matter of the Condemnation of Certain
Rights in Land by the Iowa Department of
Transportation for the Improvement of

Primary Road No. IA 13
North of the City of Manchester
located in Delaware County, Iowa

**APPLICATION TO THE CHIEF
JUDGE OF THE 1st
JUDICIAL DISTRICT FOR THE
APPOINTMENT OF A
COMMISSION TO APPRAISE
DAMAGES**

Project No. NHSN-013-2(43)--2R-28 Group "B"

TO: Kellyann Lekar, Chief Judge, 1st Judicial District including Delaware County, Iowa

Comes now the Iowa Department of Transportation and states that the public interest requires that certain rights be acquired in **Agricultural** land by Condemnation proceedings. The Iowa Department of Transportation, acting on behalf of the State of Iowa and/or its political subdivisions, has not been able to secure rights in lands by purchase and conveyance for the improvement of roads and streets. In accordance with Sec. 6B.2A, 6B.2B and 6B.3, the Code of Iowa, as amended by H.F. 476, the following is set forth:

Description: The lands and/or property rights sought to be condemned or affected are described on the attached Notice of Condemnation which is made a part of this Application.

Plat: The location of the right of way or other property rights sought to be condemned or affected are shown on the plat(s) attached to and a part of the attached Notice of Condemnation.

Minimum Land Needs: The minimum amount of land necessary to achieve the public purpose is as described in and shown on the Notice of Condemnation and attached plat(s).

Names and Addresses: The names and addresses of the record owners, lienholders, encumbrancers and other persons affected by this proceeding are listed on the attached Notice of Condemnation.

Purpose: The Department of Transportation desires the rights specified in the lands sought to be condemned for the improvement and/or maintenance of roads and streets within the State of Iowa.

Statement of Individual Rights: The Iowa Department of Transportation has provided the owner(s) with a statement of their individual rights and written notification as required under Sec. 6B.2A.

Good Faith Negotiations: The Applicant has made an effort to negotiate in good faith with the

owner(s) to acquire the property sought to be condemned. These efforts include:

1. Provided the owner(s) with written notification at least 30 days prior to the intent to proceed with this public improvement.
2. Provided the owner(s) with a copy of the appraisal of the property sought.
3. Discussed the basis of determining value.
4. Reviewed the project design plans.
5. Discussed the contents of the acquisition contract.
6. Addressed owner's questions and concerns.
7. Provided the owner(s) with a written offer of the fair market value.

Based on these efforts, we were unable to reach an agreement.

Agricultural Land: A part of the lands sought to be appropriated may be classified as Class I or Class II within an agricultural area and, if so classified, is reasonably necessary for this internal improvement.

Request: NOW, THEREFORE, the Iowa Department of Transportation hereby requests the appointment of a compensation commission of six qualified persons to view the premises and appraise the damages which the owners, lienholders, encumbrancers and other persons affected will sustain by reason of this Condemnation.

Dated at Ames, Iowa, this 18th day of September, 2023.

IOWA DEPARTMENT OF TRANSPORTATION
SHEAN FLETCHALL
Transportation Section Chief
Assistant Attorney General

By Katie A. Johnson
Katie A. Johnson
Condemnation Unit Coordinator
Right of Way Bureau

Filed in my office at Wadena, Iowa, this 21 day of September, 2023.

Kellyann Lekar
Kellyann Lekar
Chief Judge of the 1st Judicial District
including Delaware County, Iowa.

I certify that this Application for Condemnation has been approved by the Chief Judge.

Allyssa Myers
Allyssa Myers, Condemnation Agent

In the Matter of the Condemnation of
Certain Rights in Land
by the Iowa Department of Transportation
for the Improvement of

NOTICE

Primary Road No. IA 13

North of the City of Manchester

located in Delaware County, Iowa

Project No. NHSN-013-2(43)--2R-28

Group "B"

TO:

Kenneth & Karen Ries, LLC, c/o Kenneth E. Ries, Registered Agent, 3257 150th Avenue, Ryan, IA
52330

Farm Credit Services of America, FLCA, 5015 South 118th Street, Omaha, NE 68137

Delaware County, Iowa, c/o County Auditor, 301 East Main Street, Manchester, IA 52057

and to all other persons, companies or corporations having any interest in or owning any of the following described real estate: Part of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$, the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ and the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 17, Township 89 North, Range 5 West of the 5th P.M., Delaware County, Iowa.

You, and each of you, are hereby notified that the State of Iowa desires certain rights in land more specifically described as follows and shown with reference to their location as to land affected on the Acquisition Plat Exhibit "A" (1 of 2) and (2 of 2) and Graphic Exhibit "B" (1 of 2) and (2 of 2) attached hereto and to the Application filed with the Chief Judge of the Judicial District containing Delaware County, Iowa, and in the Office of the Sheriff of Delaware County, Iowa, to which you are referred:

The easement for highway purposes sought to be appropriated is in land described as follows:

A parcel of land located in the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$, the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ and the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 17, Township 89 North, Range 5 West of the 5th P.M., Delaware County, Iowa, as shown on Acquisition Plat Exhibit "A" (1 of 2) and (2 of 2) attached hereto and by reference made a part hereof.

Said parcel is described as follows:

Commencing at the SE Corner of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 17, Township 89 North, Range 5 West of the 5th P.M., Delaware County, Iowa; thence S88°18'21"W 1234.00 feet along the South line of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Section 17 to the Point of Beginning; thence continuing along said South line S88°18'21"W 16.27 feet to

Delaware County Project No. NHSN-013-2(43)--2R-28

Kenneth & Karen Ries, LLC (Parcel 10)

Continued on next page

Page 1

the existing Easterly right of way line of Primary Road No. Iowa 13; thence N02°07'39"W 3956.44 feet along said existing Easterly right of way line to the existing Southerly right of way line of 180th Street; thence N88°13'07"E 29.01 feet along said existing Southerly right of way line; thence S01°08'55"E 635.37 feet; thence S00°37'21"W 225.22 feet; thence S08°28'57"E 201.32 feet; thence S00°59'32"W 275.36 feet; thence S02°59'30"E 750.13 feet; thence S00°57'00"E 825.12 feet; thence S03°10'20"E 275.07 feet; thence S00°02'29"W 175.10 feet; thence S02°33'45"E 179.01 feet; thence S04°40'18"E 354.41 feet; thence S05°18'14"W 63.60 feet to the Point of Beginning, containing 1.63 acres more or less.

Note: The South line of the NE¼ of the SW¼ of Section 17, Township 89 North, Range 5 West, of the 5th P.M., Delaware County, Iowa is assumed to bear S88°18'21"W.

In connection with this condemnation proceeding, it is specifically provided as follows:

1. Any and all improvements, including fences or agricultural crops, if any, located wholly within the land sought by easement for highway purposes are condemned in their entirety.
2. The State of Iowa shall have a right of temporary easement in the NE¼ of the SW¼, the SE¼ of the NW¼ and the NE¼ of the NW¼ of Section 17, Township 89 North, Range 5 West of the 5th P.M., Delaware County, Iowa, for the specific purpose of constructing entrances, in land described as follows and as shown on Graphic Exhibit "B" (1 of 2) and (2 of 2) attached hereto and by reference made a part hereof:

Commencing at the NW Corner of the NE¼ of the SW¼ of Section 17, Township 89 North, Range 5 West of the 5th P.M., Delaware County, Iowa; thence N02°10'20"W, 31.63 feet along the West line of the SE¼ of the NW¼ of said Section 17; thence N87°49'40"E, 77.99 feet to the Point of Beginning; thence N88°04'40"E, 12.69 feet; thence S00°38'57"E, 45.01 feet; thence S88°04'40"W, 12.45 feet; thence N00°57'00"W, 45.01 feet to the Point of Beginning.

and,

Commencing at the SW Corner of the SE¼ of the NW¼ of Section 17, Township 89 North, Range 5 West of the 5th P.M., Delaware County, Iowa; thence N02°10'20"W, 1322.63 feet along the West line of the SE¼ of the NW¼ of said Section 17; thence N87°49'40"E, 79.78 feet to the Point of Beginning; thence N00°59'32"E, 45.06 feet; thence N88°04'40"E, 3.24 feet; thence S00°38'57"E, 45.01 feet; thence S88°04'40"W, 4.53 feet to the Point of Beginning.

Note: The West line of the SE¼ of the NW¼ of Section 17, Township 89 North, Range 5 West, of the 5th P.M., Delaware County, Iowa is assumed to bear N02°10'20"W.

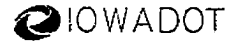
3. The State of Iowa will construct Type C entrances at Sta. 1072+65 and Sta. 1086+01, both on the east side of Primary Road No. IA 13, and at Sta. 6100+22 on the south side of Local Road 180th Street.

4. Any farm field drainage tile, or outlets, which are located within the land being acquired under this proceeding, and are damaged or destroyed by highway construction, shall be relocated, replaced or restored by the condemner and at no expense to the condemnee, and the State of Iowa shall have a right of temporary easement as necessary over condemnee's remaining property for the specific purpose of effecting such relocation, replacement or restoration.
5. The areas sought to be appropriated by temporary easement, for the specific purpose of constructing entrances and for relocating, replacing, or restoring tile, if any, are reserved to the condemnee until the actual date said areas are required for construction of this highway improvement. Also, said temporary easement rights shall terminate immediately upon completion of the operations for which said rights are sought and in no event later than the completion of this highway improvement.
6. Condemner hereby gives notice of condemnee's five-year right to renegotiate construction or maintenance damages not apparent at the time of the condemnation as required by the Code of Iowa, Section 6B.52.

Iowa Department of Transportation

ACQUISITION PLAT

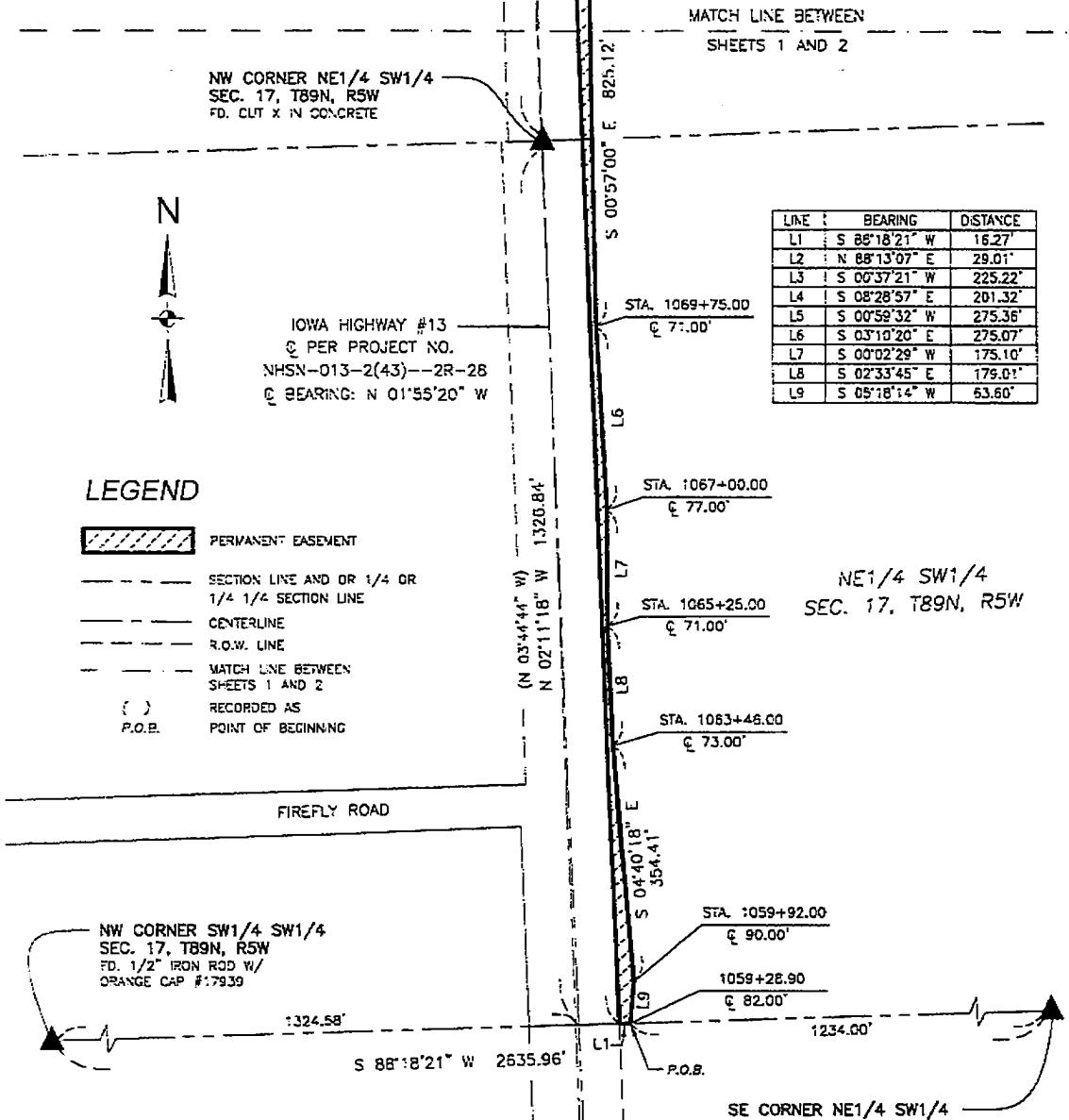
EXHIBIT "A" SHEET (1 OF 2)



COUNTY DELAWARE STATE CONTROL NO. _____
 ROW PROJECT NO. NHSN-013-2(43)--2R-28 PARCEL NO. 10
 SECTION 17 TOWNSHIP 89 NORTH RANGE 5 WEST
 ROW-FEE _____ AC, EASE 1.63 +/- AC EXCESS-FEE _____ AC
 ACCESS RIGHTS ACQUIRED - STA _____ STA _____ MAIN LINE _____ SIDE _____
 ACCESS RIGHTS ACQUIRED - STA _____ STA _____ SIDE ROAD _____ SIDE _____
 ACQUIRED FROM Kenneth and Karen Ries, LLC

ACREAGE SUMMARY TABLE

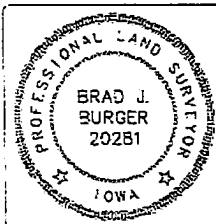
| PARCEL 10 | NE1/4 SW1/4 SEC. 17, T89N, R5W | SE1/4 NW1/4 SEC. 17, T89N, R5W | NE1/4 NW1/4 SEC. 17, T89N, R5W |
|-----------|-----------------------------------|-----------------------------------|-----------------------------------|
| | ACRES | ACRES | ACRES |
| | 0.39 +/- | 0.62 +/- | 0.62 +/- |



| LINE | BEARING | DISTANCE |
|------|---------------|----------|
| L1 | S 88°18'21" W | 16.27' |
| L2 | N 88°13'07" E | 29.01' |
| L3 | S 00°37'21" W | 225.22' |
| L4 | S 08°28'57" E | 201.32' |
| L5 | S 00°59'32" W | 275.36' |
| L6 | S 03°10'20" E | 275.07' |
| L7 | S 00°02'29" W | 175.10' |
| L8 | S 02°33'45" E | 179.01' |
| L9 | S 05°18'14" W | 63.60' |

LEGEND

- PERMANENT EASEMENT
- SECTION LINE AND OR 1/4 OR 1/4 1/4 SECTION LINE
- CENTERLINE
- R.O.W. LINE
- MATCH LINE BETWEEN SHEETS 1 AND 2
- () P.O.B. POINT OF BEGINNING



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 Land Surveyor under the laws of the State of Iowa.

Brad J. Burger 11/16/2022
 BRAD J. BURGER LICENSE NO. 20281 DATE

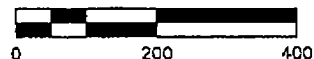
My license renewal date is December 31, 2022.

Pages or sheets covered by this plat: Sheets 1 and 2

DATE DRAWN: 7/27/2022

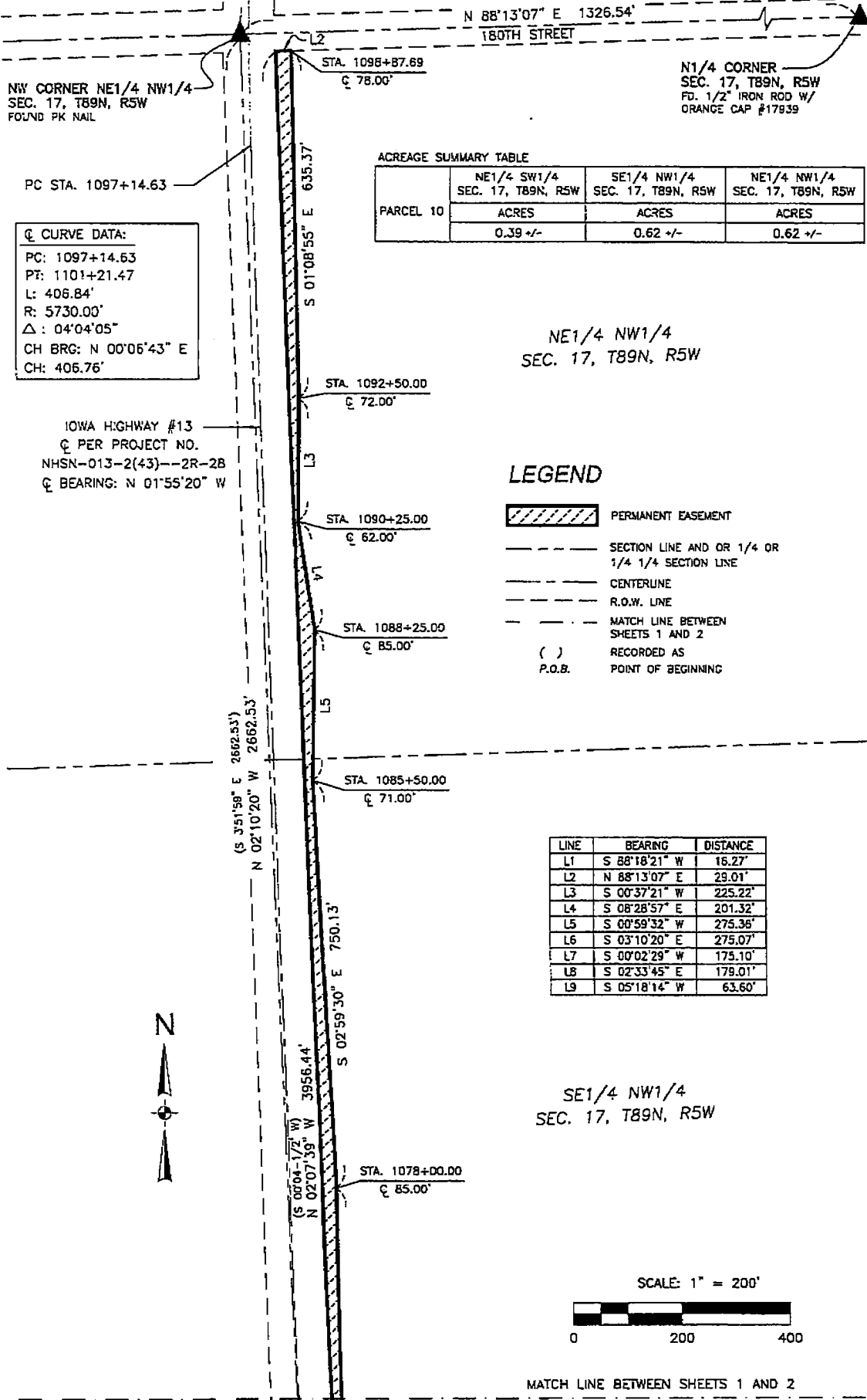
DATE REVISED: 11/14/2022

SCALE: 1" = 200'



Iowa Department of Transportation

ACQUISITION PLAT
EXHIBIT "A" SHEET (2 OF 2)



NW CORNER NE1/4 NW1/4
SEC. 17, T89N, R5W
FOUND PK NAIL

N1/4 CORNER
SEC. 17, T89N, R5W
FD. 1/2" IRON ROD W/
ORANGE CAP #17939

PC STA. 1097+14.63

☒ CURVE DATA:
PC: 1097+14.63
PT: 1101+21.47
L: 406.84'
R: 5730.00'
Δ: 04°04'05"
CH BRG: N 00°06'43" E
CH: 406.76'

IOWA HIGHWAY #13
☒ PER PROJECT NO.
NHSN-013-2(43)--2R-2B
☒ BEARING: N 01°55'20" W

ACREAGE SUMMARY TABLE

| PARCEL 10 | NE1/4 SW1/4 SEC. 17, T89N, R5W | SE1/4 NW1/4 SEC. 17, T89N, R5W | NE1/4 NW1/4 SEC. 17, T89N, R5W |
|-----------|-----------------------------------|-----------------------------------|-----------------------------------|
| | ACRES | ACRES | ACRES |
| | 0.39 +/- | 0.62 +/- | 0.62 +/- |

NE1/4 NW1/4
SEC. 17, T89N, R5W

LEGEND

- PERMANENT EASEMENT
- SECTION LINE AND OR 1/4 OR 1/4 SECTION LINE
- CENTERLINE
- R.O.W. LINE
- MATCH LINE BETWEEN SHEETS 1 AND 2
- () RECORDED AS
- P.O.B. POINT OF BEGINNING

| LINE | BEARING | DISTANCE |
|------|---------------|----------|
| L1 | S 88°18'21" W | 16.27' |
| L2 | N 88°13'07" E | 29.01' |
| L3 | S 00°37'21" W | 225.22' |
| L4 | S 08°28'57" E | 201.32' |
| L5 | S 00°59'32" W | 275.36' |
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| L8 | S 02°33'45" E | 179.01' |
| L9 | S 05°18'14" W | 63.60' |

SE1/4 NW1/4
SEC. 17, T89N, R5W

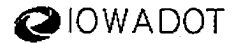
SCALE: 1" = 200'



MATCH LINE BETWEEN SHEETS 1 AND 2

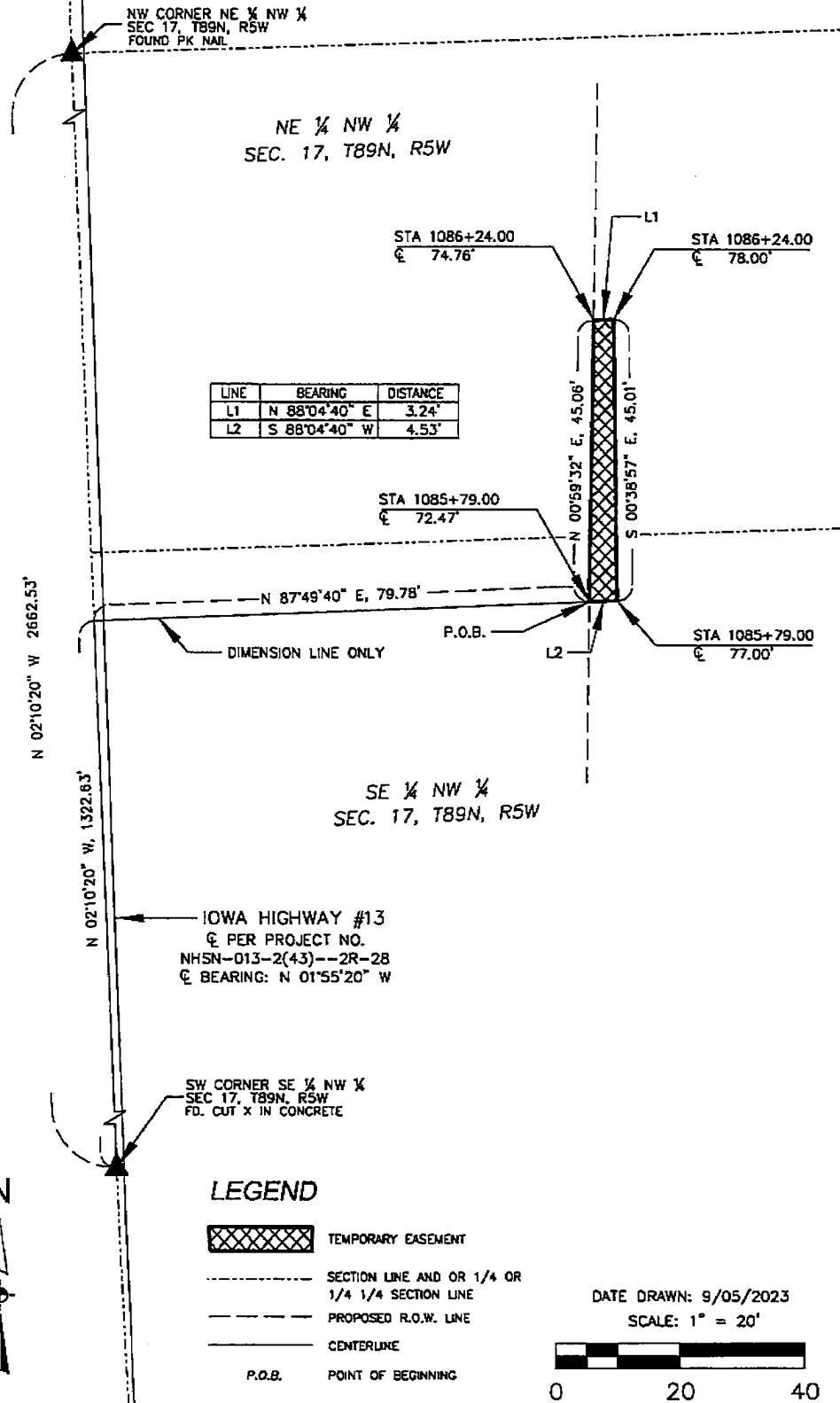
Iowa Department of Transportation

ACQUISITION PLAT
GRAPHIC EXHIBIT "B-(2 OF 2)"



COUNTY DELAWARE STATE CONTROL NO. _____
 ROW PROJECT NO. NHSN-013-2(43)--2R-28 PARCEL NO. 10
 SECTION 17 TOWNSHIP 89 NORTH RANGE 5 WEST
 ROW-FEE _____ AC, EASE _____ AC EXCESS-FEE _____ AC
 Acquired from Kenneth and Karen Ries, LLC

TEMPORARY EASEMENT TO CONSTRUCT ENTRANCE



| LINE | BEARING | DISTANCE |
|------|---------------|----------|
| L1 | N 88°04'40" E | 3.24' |
| L2 | S 88°04'40" W | 4.53' |

IOWA HIGHWAY #13
 E PER PROJECT NO.
 NHSN-013-2(43)--2R-28
 E BEARING: N 01°55'20" W

LEGEND

- TEMPORARY EASEMENT
- SECTION LINE AND OR 1/4 OR 1/4 1/4 SECTION LINE
- PROPOSED R.O.W. LINE
- CENTERLINE
- P.O.B. POINT OF BEGINNING

DATE DRAWN: 9/05/2023
 SCALE: 1" = 20'

