

RESOLUTION 1966

RESOLUTION APPROVING THAT CERTAIN PARTIAL ACQUISITION AGREEMENT AND PERMANENT WATER MAIN EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT AGREEMENT WITH RUMMELLS FARMS, INC TO RELOCATE A WATER MAIN FOR THE INTERSTATE 80 WIDENING PROJECT.

WHEREAS, the City of West Branch is required to relocate a water main that would conflict with the future Interstate 80 widening project; and

WHEREAS, the City Engineer and City Attorney have negotiated and drafted a Partial Acquisition Agreement and Permanent Water Main Easement Agreement with Rummells Farms, Inc.; and

WHEREAS, the Agreements requirement payment of \$7,311.73 for the permanent and temporary easement and a payment of \$3,760.00 which represents crop damage for the tenant farming the property; and

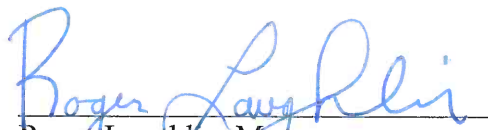
WHEREAS, it is anticipated that the Iowa Department of Transportation will reimburse the City for these costs; and

WHEREAS, it is now necessary to approve said easement agreement.


NOW, THEREFORE, It Is Resolved by the Council of the City of West Branch, Iowa, that the aforementioned Partial Acquisition Agreement and Permanent Water Main Easement and Temporary Construction Easement agreement with Rummells Farms, Inc., is hereby accepted and approved. Further, the Mayor and City Clerk are directed to execute these agreements on behalf of the City.

* * * *

Passed and approved this 21st day of December, 2020.


Roger Laughlin, Mayor

ATTEST:


Redmond Jones II, City Administrator/Clerk



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Document 2021 231 Pages 8

Date 1/15/2021 Time 10:07:35AM

Rec Amt \$42.00

Chg

MELISSA BAHNSEN, RECORDER
CEDAR COUNTY IOWA

Prepared by: Kevin D. Olson, West Branch City Attorney, PO Box 5640, Coralville, Iowa 52241 (319)351-2277

Return to: City Clerk, City of West Branch, 110 Poplar, West Branch, Iowa 52358

PARTIAL ACQUISITION AGREEMENT

THIS AGREEMENT made and entered into this 12 day of January, ²⁰²¹~~2020~~, by and between, **Rummells Farms, Inc.**, an Iowa corporation, 328 Ponte Vedra, Florida 32081, hereinafter referred to as "GRANTOR"; and the **City of West Branch, Iowa**, 110 Poplar, West Branch, Iowa 52358, hereinafter referred to as "CITY."

WHEREAS, the Iowa Department of Transportation ("DOT") is undertaking a project to widen Interstate 80 (the "DOT Project"); and

WHEREAS, as part of the DOT Project, the CITY is required to relocate existing water main owned by the CITY (the "City Project"); and

WHEREAS, the CITY needs to acquire certain easement rights from GRANTOR to complete the City Project; and

WHEREAS, to that end, the GRANTOR does hereby agree to grant easement rights to the CITY for the Project under the following terms and conditions:

1. In exchange for the payment of \$7,311.73 from the CITY, GRANTOR agrees to execute, to the CITY, that certain CITY a Perpetual Water Easement and Temporary Construction Easement Agreement furnished by the CITY, attached hereto as Exhibit "A" attached hereto, and incorporated herein by this reference (the "Easement Area"). All recording costs associated with the terms and conditions of this Agreement shall be the sole expense of the CITY.

2. In addition to the payment contemplated in Paragraph 1 above, the CITY shall also pay to GRANTOR, the sum of \$3,760.00, which represents the crop damage contemplated over the Easement Area, which the GRANTOR will ensure is paid to the farm tenant.

3. GRANTOR consents to any change of grade of the right-of-way under this contract for any and all damages arising therefrom.

4. GRANTOR acknowledges that possession of the Property is the essence of this

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Agreement and the GRANTOR does hereby grant the CITY immediate possession of said Property.

5. GRANTOR states that the GRANTOR is the lawful owner of certain real estate generally described in Exhibit "A" attached to this Agreement and by this reference made a part hereof.

6. That the GRANTOR states and warrants that there is no known well, solid waste disposal site, hazardous substances, or underground storage tanks on the premises described and sought herein.

7. That this written Partial Acquisition Agreement is intended to set forth all of the commitments, responsibilities and obligations as between the GRANTOR and the CITY in connection with the easement rights granted herein. Accordingly, the terms of this Agreement supersede and replace all prior oral negotiations and written documentation provided to facilitate negotiation of the easement rights granted herein, specifically including without limitation, the terms and provisions of that certain partial acquisition contract that pertain to the easement rights granted via this Agreement.

8. That the parties herein agree that this Agreement can be signed in counterparts.

GRANTOR:
Rummells Farms, Inc.

By: Susan Q. Kinsey
Susan Kinsey, President

By: Leah D. Keeley
Leah D. Keeley, Secretary

CITY OF WEST BRANCH:

Roger Laughlin
Roger Laughlin, Mayor

ATTEST:
Redmond Jones II
Redmond Jones II, City Administrator/Clerk

STATE OF IOWA, COUNTY OF CEDAR, ss:

On this 12th day of January, 2021, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Roger Laughlin and Redmond Jones II, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of West Branch, Iowa; a municipal corporation; that the seal affixed to the foregoing instrument is the corporate seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation, by authority of its City Council, as passed by Resolution of the City Council; and Roger Laughlin and Redmond Jones II acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation, by it voluntarily executed.

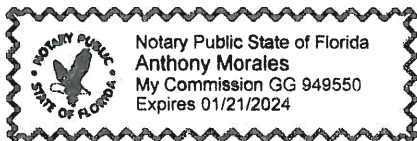
Leslie Brick
Notary Public, State of Iowa

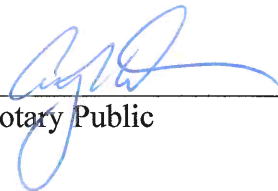


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STATE OF FLORIDA, COUNTY OF St. Johns ss:

On this 5 day of January, 2021, before me, the undersigned, a Notary Public in and for said State, personally appeared Susan Kinsey, who executed this instrument in her capacity as President of Rummells Farms, Inc.

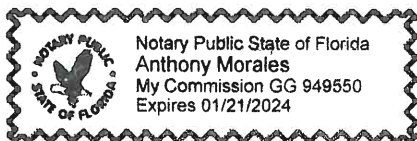


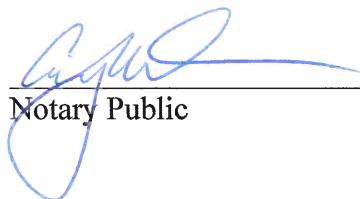


Notary Public

STATE OF Florida, COUNTY OF St. Johns, ss:

On this 5 day of January, 2021, before me, the undersigned, a Notary Public in and for said State, personally appeared Leah D. Keeley, who executed this instrument in her capacity as Secretary of Rummells Farms, Inc.





Notary Public

EXHIBIT "A"

**PERPETUAL PUBLIC UTILITY EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT
AGREEMENT**

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Prepared by: Kevin D. Olson, West Branch City Attorney, 1400 5th Street, Coralville, IA 52241, (319)351-2277.
Return to: City Clerk, City of West Branch, Iowa, 110 Poplar, West Branch, Iowa 52358

**PERPETUAL WATER MAIN EASEMENT
AND
TEMPORARY CONSTRUCTION EASEMENT AGREEMENT**

THIS AGREEMENT, made and entered into by and between **Rummells Farms, Inc.**, hereinafter referred to as "GRANTOR," and the **City of West Branch, Iowa**, a municipal corporation, 110 Poplar, West Branch, Iowa 52358, hereinafter referred to as "CITY."

FOR THE PARTIES' JOINT AND MUTUAL CONSIDERATION IT IS HEREBY AGREED AS FOLLOWS:

1. THAT UNDERSIGNED GRANTOR states that GRANTOR is the lawful possessor of certain real estate described in Exhibits "A" and "B" attached to this Agreement and by this made a part hereof, and that said possession is not subject to any other third-party possessory or proprietary interests.
2. That GRANTOR hereby grants and conveys to the CITY an exclusive **perpetual easement** for the purposes of constructing, operating, maintaining, using and reconstructing water mains and associated improvements (the "Utility Installation") in the easement areas described in Exhibits "A" and "B" hereto in connection with that certain improvement project heretofore referred to as the "City of West Branch Water Main Relocation Project." The exclusivity of the foregoing easement shall not be deemed to preclude other subsurface utility easements so long as the installation or presence of such utilities do not interfere with the right granted.
3. That GRANTOR hereby covenants that GRANTOR is lawfully seized and possessed, and is the owner of real estate described above, and that GRANTOR has a good and lawful right to convey this easement.

4. That CITY shall have the right to make excavations and to grade as it may find reasonably necessary for the construction, operation, repair, maintenance and reconstruction of the Utility Installation in the easement area; provided, however, the CITY must leave and return the easement area in essentially the same condition as prior to construction which may include but not be limited to sodding, seeding, and any replacement of any driveway or sidewalk involved.
5. That City shall have the right of ingress and egress to and from the easement area by such route as shall occasion the least practical damage and inconvenience to GRANTOR.
6. That GRANTOR reserves the right to use the above-described real estate for purposes which shall not interfere with the CITY's or public's full enjoyment of rights granted in the easement; provided, however, that GRANTOR shall not erect or construct any building or structure, or drill or operate any well, or construct any reservoir or other obstructions within the easement, nor shall GRANTOR allow or cause any substantial fill or cut over said easement without consent of GRANTOR, which consent shall not be unreasonably withheld.
7. That CITY agrees to promptly repair any damages within the areas subject within three years of the execution of this document, at request of the GRANTOR, with the intent being to restore the surface of said areas to as close to original condition as is reasonably practicable, given the perpetual public utility easement.
8. Without limiting the generality of the preceding provisions of this Agreement, GRANTOR does hereby further convey herein to CITY an exclusive **temporary construction easement** for the purpose of constructing the Utility Installation. Further, said temporary construction easement shall automatically terminate and become non-existent after completion of initial construction of the Utility installation and acceptance by CITY thereof.
9. That CITY shall indemnify GRANTOR against any loss or damage which may occur in the exercise of the easement rights granted hereunder by the CITY, except for loss which may be occasioned by a diminution in business or personal use.
10. That GRANTOR acknowledges that possession of that certain real property described in Exhibits "A" and "B" hereto is the essence of this Agreement and that, accordingly, GRANTOR does hereby grant the CITY immediate possession of said real property.
11. That CITY will be responsible for any necessary abstracting and recording fees involving the preparation and recording of the perpetual easement granted herein, and, additionally, the CITY will replace any property pins displaced as a result of construction of the Utility Installation.

12. That provisions hereof inure to the benefit of and bind the successors and assigns of the respective parties hereto, and all covenants shall apply to and run with the land. This Agreement shall be recorded at the time of its execution with the understanding that CITY has complete and absolute sole ownership, use and control of the Utility Installation to be located in the Perpetual Easement Area.
13. That this written Perpetual Water Main Easement and Temporary Construction Easement Agreement constitutes the entire agreement between GRANTOR and CITY and there is no agreement to do or not to do any act or deed except as specifically provided herein.
14. That the parties to this Agreement hereby expressly agree that this Agreement can be signed in counterparts.

Dated this 5th day of January, 2021.

GRANTOR:
Rummells Farms, Inc.

By: Susan D. Kinsey
Susan Kinsey, President

By: Leah D. Keeley
Leah D. Keeley, Secretary

CITY OF WEST BRANCH:

Roger Laughlin
Roger Laughlin, Mayor

ATTEST:

Redmond Jones II
Redmond Jones II, City Administrator/Clerk

STATE OF IOWA, COUNTY OF CEDAR, ss:

On this 12th day of January, 2021, before me, the undersigned, A Notary Public in and for the State of Iowa, personally appeared Roger Laughlin and Redmond Jones II, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of West Branch, Iowa; a municipal corporation; that the seal affixed to the foregoing instrument is the corporate seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation, by authority of its City Council, as passed by Resolution of the City Council; and Roger Laughlin and Redmond Jones II acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation, by it voluntarily executed.

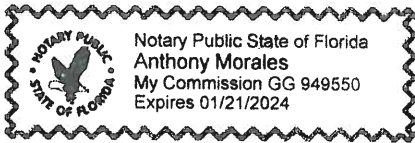
Leslie Brick
Notary Public in and for the State of Iowa

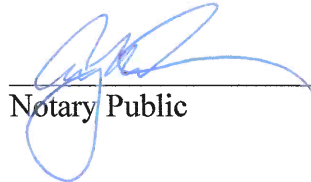


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STATE OF FLORIDA, COUNTY OF St. Johns, ss:

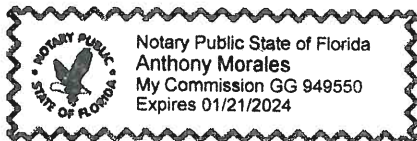
On this 5 day of January, 2021, before me, the undersigned, a Notary Public in and for said State, personally appeared, Susan Kinsey, who executed this instrument as President of Rummells Farms, Inc.

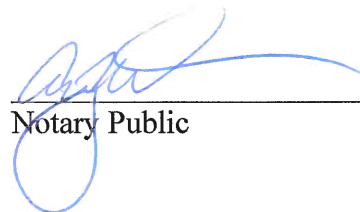



Notary Public

STATE OF Florida, COUNTY OF St. Johns, ss:

On this 5 day of January, 2021, before me, the undersigned, a Notary Public in and for said State, personally appeared, Leah D. Keeley, who executed this instrument as Secretary of Rummells Farms, Inc.




Notary Public

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