'96 OCT 30 AM 11:24
DELAWARE COUNTY, IOWA
FILED
BOOK 6 PAGE 211
JERRY L. PEYTON
DELAWARE CO. RECORDER
96-1452
Agr. #1044

Jo Ellen Howard, MOA — Authorized Residency Representative
5455 Kirkwood Blvd. SW, Cedar Rapids, IA — Address
319-365-3558 — Telephone Number

ENTER PREPARER'S NAME, ADDRESS, AND TELEPHONE NUMBER ON BLANK LINES ABOVE. LEAVE REMAINING TOP PORTION BLANK FOR COUNTY RECORDER'S USE

Form 810052
12-95

Iowa Department of Transportation
MAINTENANCE DIVISION

Connection No. 1044
Parcel No. 2
County Delaware
Highway No. 38
Project No. FN249
Access Priority Rating 6

☐ Agreement for Revision of Access *(See Sections A, B, D and E below)*
☒ Establishment of a Special Access Connection *(See Sections A, C, D and E below)*

This Agreement, made and entered into by and between Randy ~~Harbach~~ Harbach Box 231 HWY 38, Delhi, IA 52223
(Type name and address of owner)
319-922-2434
(Telephone No.)
the present owner(s) of land adjacent to the above referenced highway, *(hereafter referred to as the Owners)*, and the Iowa Department of Transportation, acting for the State of Iowa *(hereafter referred to as the Department)*.

A. Identification

The Owners own land generally located in ¼ ¼ Sec. *(or lot)* NE ¼ of Sec. *(or Blk.)* 32 and parts of ¼ ¼ Sec. *(or lot)* _____ *of Sec. (or Blk)* _____ in Twp. 89N, Rge. 4W or *(Sub. Div.)* _____ *(in the City of)* _____, County of Delaware, State of Iowa more particularly to which the State of Iowa has previously acquired access rights by deed *(or condemnation)* from Charles Seymore and recorded in Book *(Vol.)* 84, Page 196, *(Instrument No.)* _____ in the Office of the _____ County Recorder.

B. Requested Access Revision

The said Owners now desire to change the _____ of the _____ entrance *(right of access)* reserved at station _____, (_____ MP#) _____ side, to a ☐ Type A, ☐ Type B, or ☐ Type C entrance *(right of access)* at station _____, (_____ MP#) _____ side of Primary Highway No. _____ substituting the later for the former.
The new entrance will be constructed _____ meters (or _____ feet) in width and with _____ meter (or _____ feet) radius returns or tapers.

C. Establishment of a Special Access Connection (Special Public Road Connection)

The said Owners have title to property as described above and more particularly to which the Department has acquired the access rights and now request authorization to establish an access opposite station 648+46 (86.621 MP#), Rt / East side of Primary Highway No. 38. The access requested shall be constructed in compliance with Department Standards adopted for a ☐ Type A, ☒ Type B, or ☐ Type C and shall be constructed 14 meters (or 45 feet) in width and with 12 meter (or 39 feet) radius returns or tapers. In the establishment of this access location, the Owners agree that the following existing entrance(s) will be permanently removed or extinguished.

Station	Side	Type
~~N/A~~ 651+85	~~N/A~~ EAST	~~N/A~~ "C"

We, the undersigned, are the owner, or owners, or record, or the legal and duly authorized representative of the owner, of the property abutting Primary Road 38 between Station 647+96 (E) and Station 659+95(E) on the Rt / East side and agree that we shall save the State and Iowa Department of Transportation harmless of any damage or losses for personal injury or property damage that may be sustained by any person, or persons, on account of any activity undertaken pursuant to this agreement and the conditions and requirements of this agreement.

Signature Box 231 Delhi — Address
Randy Harbach — Type or Print Name

Beverly J McAreavy Delaware Ia 52036 — Signature, Address
Beverly J McAreavy City Clerk — Type or Print Name

ACKNOWLEDGEMENT

State of Iowa County of Delaware
On this 11th day of September A.D. 19 96, before me Larry R. Hillers,
a Notary Public in and for said State of Iowa, personally appeared Randy Harbach
and Beverly J. McAreavy to be known to be the person(s), named in and who execute the foregoing instrument, and acknowledge, that they executed the same as a voluntary act and deed.

NOTARIAL SEAL — LARRY R. HILLERS MY COMMISSION EXPIRES 6-2-99

Notary Public in and for said State

Reviewed and Recommend following action:

☐ APPROVE ☐ DENY — Authorized City or Town Official — Date

☐ APPROVE ☐ DENY — Authorized County Zoning Official — Date

Department of Transportation Action:

☒ APPLICATION APPROVED ☐ APPLICATION DENIED

On behalf of the Department of Transportation, Maintenance Division, the above action has been taken on this application on this 19 day of October, A.D., 19 96

BY: Larry R. Hillers
Director of Maintenance Division or Authorized Designee

DATE 10-30-96 BOOK 6 PAGE 211

D. General

1. The Department and the Owners agree that the entrance *(right of access)* desired by said Owners as noted in Section B on the reverse side, is substituted for and in lieu of the entrance *(right of access)* formerly reserved or as noted in Section C *(on the reverse side) is an additional access location authorized to the property ownership. In all other respects, said deed or (condemnation)* remains as before, and the rights acquired thereby, with these changes only, remain in the State of Iowa, as against the said Owners, their heirs, assigns, and successors in interest.

2. Words and phrases herein, including acknowledgement hereof, shall be construed as in the singular or plural, and as masculine, feminine or neuter gender according to the context.

3. A copy of the approved application shall be available on the job site at all times for examination by Department officials.

4. Subject to the approval of this application and upon completion of the constructing of the entrance in compliance with the terms agreed upon in this document and attachment, no changes in the entrance or its location shall be undertaken without the prior written approval of the Department.

5. The owner shall be responsible for all future maintenance costs associated with maintaining the access in a safe state of repair from the outer shoulder line of the primary highway to the right of way line.

   a. If a drainage structure is required as a part of the permit application, the Department shall be responsible for maintaining that portion of the drainage structure located within the primary highway rights of way.

   b. Nothing in this stipulation, however, shall preclude the Department from entering upon said entrance on highway right of way and performing necessary maintenance for the protection of the highway or highway user.

6. In the future, should this entrance generate sufficient traffic to warrant a need for additional traffic control upon the primary road system, costs for these improvements shall be the responsibility of the owner and shall be constructed in accordance with Department standards. These may include, but would not necessarily be limited to the constructing of turn lanes and/or signalization.

7. That all provisions herein relating to the construction, repair or maintenance of the access shall be binding on all successors or assigns of the owner.

E. Liability

1. The Owner(s) shall indemnify and save harmless the State of Iowa, its agencies and employees, from any and all causes of action, suits at law or in equity, for losses, damages, claims or demands, and from any and all liability and expense of whatsoever nature, arising out of or in connection with owner's use or occupancy of the public highway.

2. If the Owner(s) should fail to comply with any of the conditions and requirements of this agreement, the Department may terminate it, whereupon the owner(s) shall immediately remove any construction undertaken pursuant to this agreement and restore the access(es) previously existing, and any rights granted the owner(s) by this agreement shall end.

   a. If the owner fails to remove the construction or fails to conform to the specifications and stipulations of this application, the Department may enter and remove the non-conforming work or make the necessary changes and charge the cost against the owner, including court action if necessary.

F. Notification

1. Before beginning any work in the highway right of way, it is the responsibility of the owner(s) to:

   a. Contact utility companies which may be located in the area of the proposed work. Contact should be made by calling Iowa One Call at 1-800-292-8989, a minimum of 48 hours in advance of starting construction.

   b. Notice of the construction start date is to be given 48 hours in advance of actual construction, to the following:

Jo Ellen Howard	IDOT 5455 Kirkwood Blvd, SW., C.R. IA	319-365-3558
Name	Address	Telephone Number

G. Construction and Maintenance

1. That all provisions herein relating to the construction, repair or maintenance of the access shall be binding on all successors or assigns of the owner.

2. Unless specifically noted in this application, all work performed within the right of way shall be restricted to a time frame of 30 minutes after sunrise to 30 minutes before sunset.

3. The access, including drainage structure, grading and surfacing, and entrance configuration shall be constructed by the owner at the owner's expense, in accordance with the exhibit and attachments hereto, and in conformity with the standard specifications of the Department of Transportation.

4. That the construction, future repair or maintenance of said entrance shall be carried on in such a way as not to interfere with, or interrupt traffic on said highway, and the owner shall take all reasonable precautions to protect and safeguard the lives and property of any person or persons, on account of such construction, repair or maintenance operation.

5. That no filling will be permitted in the right of way of primary road No. 38 other than that necessary to construct the proposed entrance or as specifically stated herein.

6. **In a rural-designed area** to prevent water draining on the pavement or traveled way of the primary highway, the finished surface elevation of the driveway over the pipe or place whether the pipe would normally be placed shall be 150 millimeters (or 6 inches) lower than the highway shoulder elevation.

   a. If required, the culvert pipe under the entrance shall be 450 millimeters (or 18 inches) in diameter and 23 meters (or 77 feet) in length as shown on the attached sketch and of a quality complying with Sections 2422, 4141, 4145 and 4146 of the Department's Metric Standard and Specifications, Series 1995, or subsequent revision. The pipe shall be installed at the elevation specified by the Department's engineer.

   In an urban-designed area, where drainage is carried along an existing curb, the entrance shall be constructed with a rise in elevation of 150 to 225 millimeters (5.9 to 8.9 inches) from the street gutter at the entrance to a point 2 meters (6.6 feet) behind the gutter. This will prevent runoff from spilling onto private property.

7. Side slope of the requested entrance shall be constructed at a minimum of 10:1 slope where no culvert is required and 8:1 slope when a culvert is required.

H. Special Requirements or Additional Stipulations

The following special requirements or additional stipulations shall apply to this permit:

If applicant needs to disturb the existing ditch, he sahll reshape and reseed the area at his expense, maintaining a ditch depth of 4 feet. The applicant will remove the existing access @ Station 651+85 Rt/East.

Form 640002
12-95

Iowa Department of Transportation
Maintenance Division

ACCESS EXHIBIT

No. 1044
County Delaware
Proj. No FN249

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☒ SPECIAL ACCESS CONNECTION
Access Rights Acquired
Attach to Form 810052

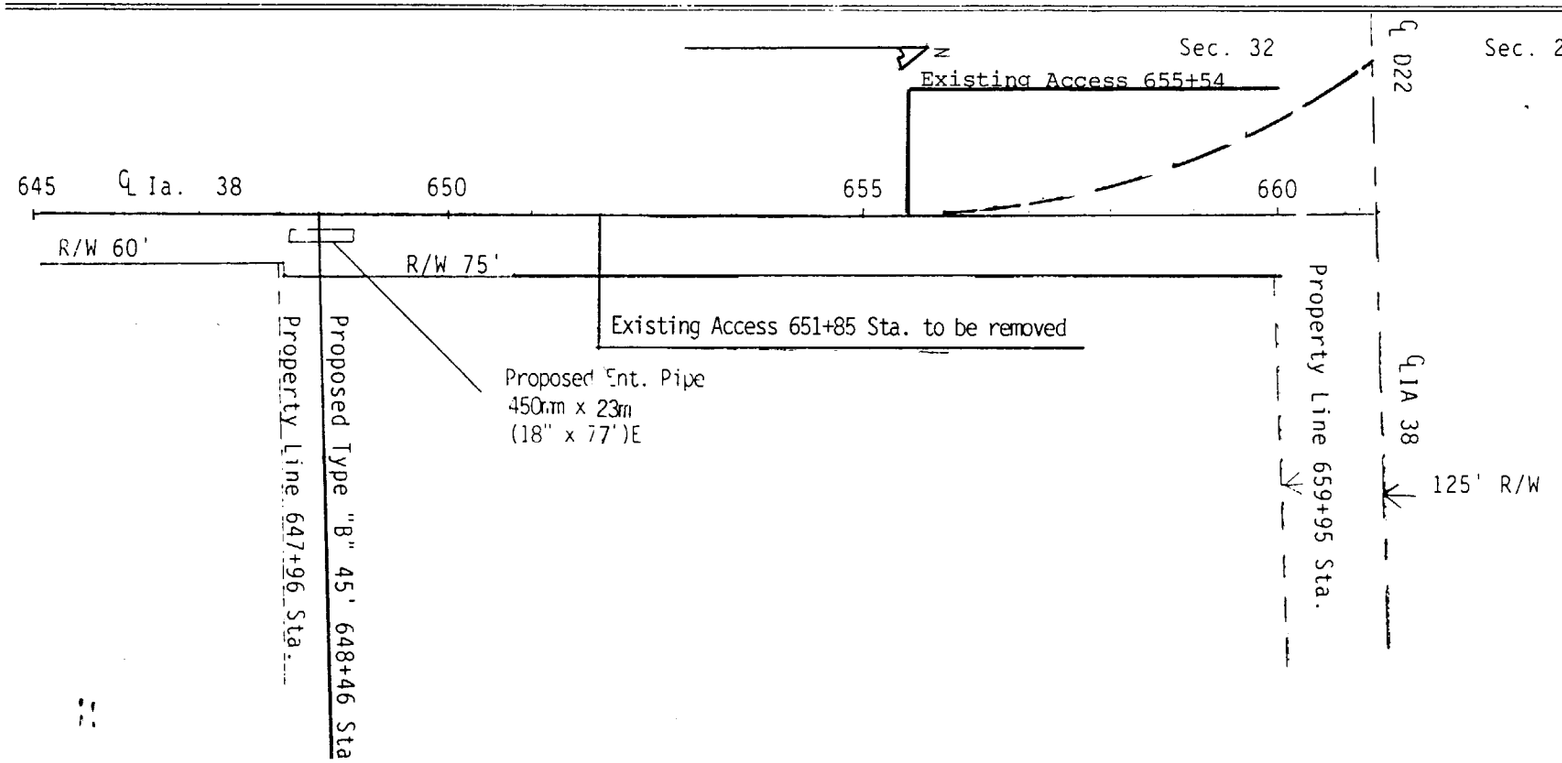
☐ REVISION OF ACCESS
Access Rights Acquired
Attach to Form 810052

☐ ENTRANCE PERMIT APPLICATION
Access Rights Not Acquired
Attach to Form 640004

Location Description: Primary Road No. 38 Sec. 32 T 89N R 4W Delaware County.

Being 0.24 Miles South (Direction) From The intersection of Hwy 38 and County Road D22 More Specifically described as:

Rt/East of Station 648+46, 1274 feet south of the north line of Sec. 32/T89N/R4W, Delaware County



1"=200'

Applicant Randy Harback Address Box 231 Hwy 38 Delhi, IA 52223

Date August 22 19 96 Telephone Number 319-922-2434

Over –