

ACCESS EASEMENT DECLARATION

This Access Easement Declaration is made this 9th day of Jan., 2023, by Cory Penz and Hilary Penz, married to each other, hereinafter "Declarant".

WHEREAS, Declarant is the owner of the following real property located in Olmsted County, Minnesota, legally described as follows:

The Northeast Quarter of Section 16, Township 107 North, Range 13 West, Olmsted County, Minnesota, EXCEPT the following described property:

Beginning at the southwest corner of the Northeast Quarter of said Section 16; thence North 00 degrees 14 minutes 26 seconds West, assumed bearing, along the west line thereof, 1050.00 feet; thence South 75 degrees 47 minutes 51 seconds East, 1046.06 feet; thence South 00 degrees 14 minutes 26 seconds East, 789.66 feet to the south line of said Northeast Quarter; thence South 89 degrees 47 minutes 29 seconds West, along said south line, 1013.00 feet.

hereinafter the "Property"; and

WHEREAS, Declarant desires to subdivide the Property into four (4) residential lots, each legally described in the attached Exhibit A as Parcel A, Parcel B, Parcel C and Parcel D, hereinafter, "Parcel A", "Parcel B", "Parcel C", and "Parcel D", respectively, each individually a "Parcel" and collectively the "Parcels"; and

WHEREAS, Declarant desires to provide for a shared access easement serving the Parcels on the terms and conditions contained herein.

NOW, THEREFORE, Declarant hereby subjects the Parcels to the following covenants, conditions, easements and restrictions:

1. Grant of Easements. Declarant hereby grants to the owner of each Parcel, their respective heirs, successors and assigns, a non-exclusive, perpetual easement for shared access purposes, upon over and across that part of the Property legally described on Exhibit B and depicted on Exhibit C-1 and C-2, hereinafter the "Easement Area."

2. Limitation on Use. The Easement Area shall be used by the owners of the Parcels, their invitees, guests, and tenants, solely for purposes incidental to residential uses. The owner of each Parcel shall use reasonable efforts to ensure that the Easement Area is kept open and unblocked and that access to the other Parcels is not obstructed or impaired.

3. Construction, Maintenance, Repair and Replacement of the Easement Area. Declarant shall be responsible for the cost of the initial construction of a road within the Easement Area. The owners of the Parcels shall share equally in the cost of maintaining, repairing, improving and snow removal of the Easement Area provided that any damage or destruction to the Easement Area caused by the negligent or willful act of an owner or their invitees, guests, or tenants shall be repaired by such owner. Any activity related to the maintenance, repair or improvement of the Easement Area shall be undertaken in a manner so as to not unreasonably interfere with the use thereof by the owners of other Parcels. Except for routine maintenance such as grading and snow plowing, no owner of a Parcel shall make improvements, alternations, or additions to the Easement Area without written permission of a majority of the owners of the Parcels.

4. Breach. In the event of breach or threatened breach of this Declaration by the owner of a Parcel, only the record owner of the other Parcels shall be entitled to institute proceedings for full and adequate relief for the consequences of said breach or threatened breach. The unsuccessful party in any such action shall pay to the prevailing party a reasonable sum for attorney's fees, which shall be deemed to have been accrued on the date such action was filed.

5. Rights of Successors and Duration. The easements, covenants, rights, restrictions and provisions of this Declaration:

- (a) are made for the direct benefit of the respective Parcels and are appurtenant thereto;
- (b) create an equitable servitude upon the respective Parcels;
- (c) constitute covenants running with the land;
- (d) shall bind every person or entity having any fee, leasehold, or other interest in or encumbrance on any portion of any Lot at any time; and
- (e) shall continue in full force and effect perpetually.

6. Modification. No amendment, change or addition to this Declaration shall be effective unless in writing signed by the respective owners of each Parcel.

7. Waiver. No waiver of any breach of the easements, rights, obligations, covenants or provisions herein shall be construed or constitute a waiver of any breach, or waiver or consent to further or succeeding breaches of the same or any other provision hereof.

8. Construction. This Declaration shall be construed and enforced in accordance with the laws of the State of Minnesota.

9. Recording. A fully executed counterpart of this Declaration shall be recorded in the Office of the Olmsted County Recorder.

10. Headings. The headings herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of this document nor in any way affect the terms and provisions hereof.

[SIGNATURE PAGE FOLLOWS]

Exhibit A

PARCEL 'A'

That part of the Northeast Quarter of Section 16, Township 107 North, Range 13 West, Olmsted County, Minnesota, described as follows:

Beginning at the southeast corner of said Northeast Quarter; thence on an assumed bearing of South 89°47'27" West, along the south line of said Northeast Quarter, 275.16 feet; thence North 00°02'04" East 554.30 feet; thence northwesterly 127.58 feet, along a tangential curve, concave to the southwest, said curve has a radius of 250.00 feet, a central angle of 29°14'18", and the chord of said curve bears North 14°35'05" West 126.20 feet; thence North 29°12'14" West, tangent to said curve, 193.31 feet; thence northwesterly 265.84 feet, along a tangential curve, concave to the southwest, said curve has a radius of 275.00 feet, a central angle of 55°23'11", and the chord of said curve bears North 56°53'49" West 255.61 feet; thence North 84°35'25" West, tangent to said curve, 344.86 feet; thence North 00°21'52" West 789.75 feet; thence North 89°48'35" East 138.75 feet; thence North 00°21'52" West 805.02 feet to the north line of said Northeast Quarter; thence North 89°48'35" East 813.13 feet to the northeast corner of said Northeast Quarter; thence South 00°21'52" East, along the east line of said Northeast Quarter, 2614.23 feet to the point of beginning.

The above described parcel contains 40.00 acres, more or less, and is subject to any easements, covenants, and restrictions of record.

PARCEL 'B'

That part of the Northeast Quarter of Section 16, Township 107 North, Range 13 West, Olmsted County, Minnesota, described as follows:

Commencing at the southeast corner of said Northeast Quarter; thence on an assumed bearing of South 89°47'27" West, along the south line of said Northeast Quarter, 275.16 feet; thence North 00°02'04" East 554.30 feet; thence northwesterly 127.58 feet, along a tangential curve, concave to the southwest, said curve has a radius of 250.00 feet, a central angle of 29°14'18", and the chord of said curve bears North 14°35'05" West 126.20 feet; thence North 29°12'14" West, tangent to said curve, 70.86 feet to the point of beginning; thence continuing North 29°12'14" West 122.45 feet; thence northwesterly 265.84 feet, along a tangential curve, concave to the southwest, said curve has a radius of 275.00 feet, a central angle of 55°23'11", and the chord of said curve bears North 56°53'49" West 255.61 feet; thence North 84°35'25" West, tangent to said curve, 344.86 feet; thence South 00°21'52" East 477.57 feet; thence North 89°59'52" East 248.28 feet; thence North 61°30'36" East 416.27 feet to the point of beginning.

The above described parcel contains 5.10 acres and is subject to any easements, covenants, and restrictions of record.

PARCEL 'C'

That part of the Northeast Quarter of Section 16, Township 107 North, Range 13 West, Olmsted County, Minnesota, described as follows:

Commencing at the southeast corner of said Northeast Quarter; thence on an assumed bearing of South 89°47'27" West, along the south line of said Northeast Quarter, 275.16 feet; thence North 00°02'04" East, 554.30 feet; thence northwesterly 127.58 feet, along a tangential curve, concave to the southwest, said curve has a radius of 250.00 feet, a central angle of 29°14'18", and the chord of said curve bears North 14°35'05" West 126.20 feet; thence North 29°12'14" West, tangent to said curve, 193.31 feet; thence northwesterly 265.84 feet, along a tangential curve, concave to the southwest, said curve has a radius of 275.00 feet, a central angle of 55°23'11", and the chord of said curve bears North 56°53'49" West 255.61 feet; thence North 84°35'25" West, tangent to said curve, 344.86 feet to the point of beginning; thence North 00°21'52" West 789.75 feet; thence South 89°48'35" West 468.53 feet; thence South 00°21'52" East 200.00 feet; thence South 44°25'29" East 529.94 feet; thence South 00°21'52" East 200.00 feet; thence southeasterly 22.04 feet, along a non-tangential curve, concave to the north, said curve has a radius of 1000.00 feet, a central angle of 01°15'47", and the chord of said curve bears South 83°57'31" East; thence South 84°35'25" East, tangent to said curve, 78.49 feet to the point of beginning.

The above described parcel contains 5.10 acres and is subject to any easement, covenant, and restrictions of record.

PARCEL 'D'

The Northeast Quarter of Section 16, Township 107 North, Range 13 West, Olmsted County, Minnesota, EXCEPT the following described property:

Beginning at the southwest corner of the Northeast Quarter of said Section 16; thence North 00 degrees 14 minutes 26 seconds West, assumed bearing, along the west line thereof, 1050.00 feet; thence South 75 degrees 47 minutes 51 seconds East, 1046.06 feet; thence South 00 degrees 14 minutes 26 seconds East, 789.66 feet to the south line of said Northeast Quarter; thence South 89 degrees 47 minutes 29 seconds West, along said south line, 1013.00 feet.

ALSO EXCEPT

That part of the Northeast Quarter of Section 16, Township 107 North, Range 13 West, Olmsted County, Minnesota, described as follows:

Commencing at the southeast corner of said Northeast Quarter; thence on an assumed bearing of South 89°47'27" West, along the south line of said Northeast Quarter, 275.16 feet; thence North 00°02'04" East, 554.30 feet; thence northwesterly 127.58 feet, along a tangential curve, concave to the southwest, said curve has a radius of 250.00 feet, a central angle of 29°14'18", and the chord of said curve bears North 14°35'05" West 126.20 feet; thence North 29°12'14" West, tangent to said curve, 193.31 feet; thence northwesterly 265.84 feet, along a tangential curve, concave to the southwest, said curve has a radius of 275.00 feet, a central angle of 55°23'11", and the chord of said curve bears North 56°53'49" West 255.61 feet; thence North 84°35'25" West, tangent to said curve, 344.86 feet to the point of beginning; thence North 00°21'52" West 789.75 feet; thence South 89°48'35" West 468.53 feet; thence South 00°21'52" East 200.00 feet;

thence South 44°25'29" East 529.94 feet; thence South 00°21'52" East 200.00 feet; thence southeasterly 22.04 feet, along a non-tangential curve, concave to the north, said curve has a radius of 1000.00 feet, a central angle of 01°15'47", and the chord of said curve bears South 83°57'31" East; thence South 84°35'25" East, tangent to said curve, 78.49 feet to the point of beginning.

ALSO EXCEPT

That part of the Northeast Quarter of Section 16, Township 107 North, Range 13 West, Olmsted County, Minnesota, described as follows:

Beginning at the southeast corner of said Northeast Quarter; thence on an assumed bearing of South 89°47'27" West, along the south line of said Northeast Quarter, 275.16 feet; thence North 00°02'04" East, 554.30 feet; thence northwesterly 127.58 feet, along a tangential curve, concave to the southwest, said curve has a radius of 250.00 feet, a central angle of 29°14'18", and the chord of said curve bears North 14°35'05" West 126.20 feet; thence North 29°12'14" West, tangent to said curve, 193.31 feet; thence northwesterly 265.84 feet, along a tangential curve, concave to the southwest, said curve has a radius of 275.00 feet, a central angle of 55°23'11", and the chord of said curve bears North 56°53'49" West 255.61 feet; thence North 84°35'25" West, tangent to said curve, 344.86 feet; thence North 00°21'52" West 789.75 feet; thence North 89°48'35" East 138.75 feet; thence North 00°21'52" West 805.02 feet to the north line of said Northeast Quarter; thence North 89°48'35" East 813.13 feet to the northeast corner of said Northeast Quarter; thence South 00°21'52" East, along the east line of said Northeast Quarter, 2614.23 feet to the point of beginning.

ALSO EXCEPT

That part of the Northeast Quarter of Section 16, Township 107 North, Range 13 West, Olmsted County, Minnesota, described as follows:

Commencing at the southeast corner of said Northeast Quarter; thence on an assumed bearing of South 89°47'27" West, along the south line of said Northeast Quarter, 275.16 feet; thence North 00°02'04" East, 554.30 feet; thence northwesterly 127.58 feet, along a tangential curve, concave to the southwest, said curve has a radius of 250.00 feet, a central angle of 29°14'18", and the chord of said curve bears North 14°35'05" West 126.20 feet; thence North 29°12'14" West, tangent to said curve, 70.86 feet to the point of beginning; thence continuing North 29°12'14" West 122.45 feet; thence northwesterly 265.84 feet, along a tangential curve, concave to the southwest, said curve has a radius of 275.00 feet, a central angle of 55°23'11", and the chord of said curve bears North 56°53'49" West 255.61 feet; thence North 84°35'25" West, tangent to said curve, 344.86 feet; thence South 00°21'52" East 477.57 feet; thence North 89°59'52" East 248.28 feet; thence North 61°30'36" East 416.27 feet to the point of beginning.

The above described parcel contains 85.91 acres, more or less, and is subject to any easements, covenants, and restrictions of record.

Exhibit B

Easement Area

That part of the Northeast Quarter of Section 16, Township 107 North, Range 13 West, Olmsted County, Minnesota, described as being a strip of land 66.00 feet in width, lying 33.00 feet on each side of, parallel, adjacent, and contiguous to the following described centerline:

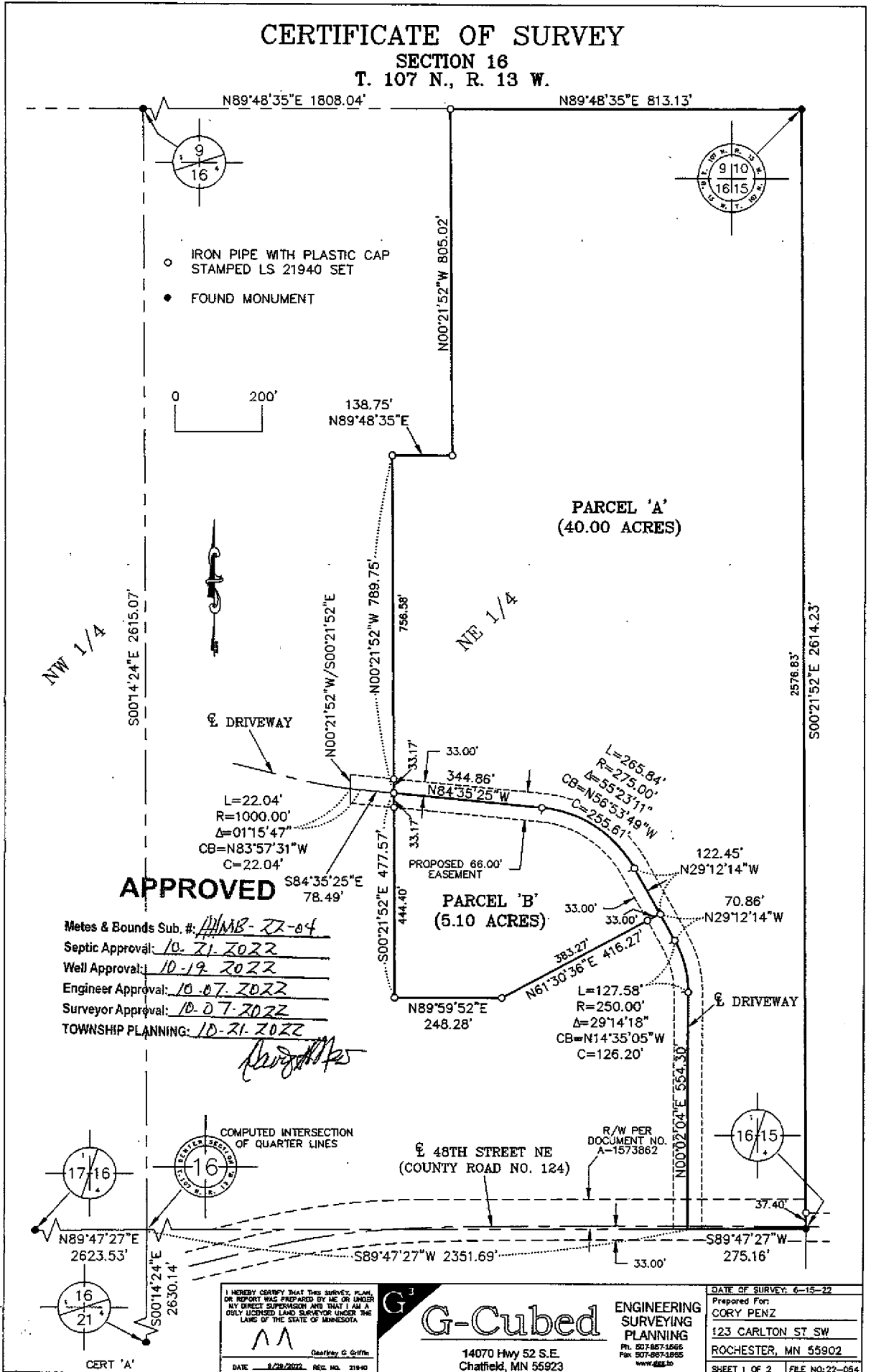
Commencing at the southeast corner of said Northeast Quarter; thence on an assumed bearing of South 89°47'27" West, along the south line of said Northeast Quarter, 275.16 feet to the point of beginning of the centerline to be described; thence North 00°02'04" East 554.30 feet; thence northwesterly 127.58 feet, along a tangential curve, concave to the southwest, said curve has a radius of 250.00 feet, a central angle of 29°14'18", and the chord of said curve bears North 14°35'05" West 126.20 feet; thence North 29°12'14" West, tangent to said curve, 193.31 feet; thence northwesterly 265.84 feet, along a tangential curve, concave to the southwest, said curve has a radius of 275.00 feet, a central angle of 55°23'11", and the chord of said curve bears North 56°53'49" West 255.61 feet; thence North 84°35'25" West, tangent to said curve, 423.35 feet; thence northwesterly 22.04 feet, along a tangential curve, concave to the north, said curve has a radius of 1000.00 feet, a central angle of 01°15'47", and the chord of said curve bears North 83°57'31" West 22.04 feet and there terminating.

The southerly end of said easement shall be prolonged or shortened to begin on the south line of said Northeast Quarter. The westerly end of said easement shall be prolonged or shortened to terminate on a line that bears North 00°21'52" West / South 00°21'52" East from the point of termination.

CERTIFICATE OF SURVEY

SECTION 16
T. 107 N., R. 13 W.

EXHIBIT C-1



I HEREBY CERTIFY THAT THIS SURVEY, PLAN, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A ONLY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

[Signature]
 Gary C. Griffin
 DATE: 8/28/2022 REC. NO. 21840

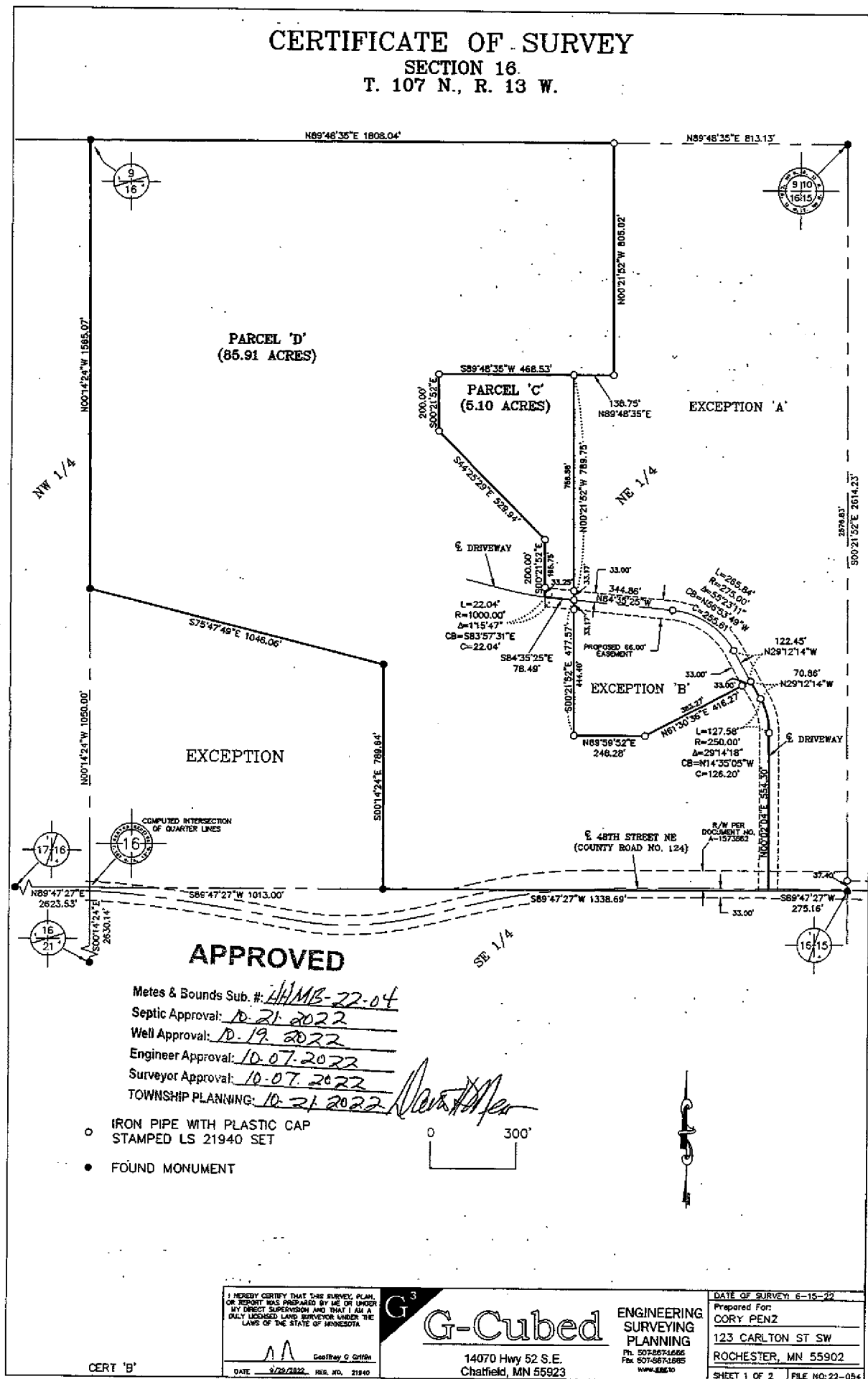
G-Cubed
 ENGINEERING SURVEYING PLANNING
 14070 Hwy 52 S.E.
 Chatfield, MN 55923

DATE OF SURVEY: 6-15-22
 Prepared For: CORY PENZ
 123 CARLTON ST SW
 ROCHESTER, MN 55902
 SHEET 1 OF 2 FILE NO: 22-054

CERTIFICATE OF SURVEY

SECTION 16.
T. 107 N., R. 13 W.

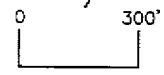
EXHIBIT C-2



APPROVED

Metes & Bounds Sub. #: HHMB-22-04
 Septic Approval: 10-21-2022
 Well Approval: 10-19-2022
 Engineer Approval: 10-07-2022
 Surveyor Approval: 10-07-2022
 TOWNSHIP PLANNING: 10-21-2022

- IRON PIPE WITH PLASTIC CAP
STAMPED LS 21940 SET
- FOUND MONUMENT



I HEREBY CERTIFY THAT THIS SURVEY, PLAN, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

Geoffrey C. Giffen
DATE: 9/29/2022 REG. NO. 21940

G-Cubed

14070 Hwy 52 S.E.
Chatfield, MN 55923

ENGINEERING SURVEYING PLANNING
 Ph: 507-867-1266
 Fax: 507-867-1885
 www.gsc610

DATE OF SURVEY: 6-15-22
 Prepared For:
 CORY PENZ
 123 CARLTON ST SW
 ROCHESTER, MN 55902

SHEET 1 OF 2 | FILE NO: 22-054

CERT 'B'