11

PUBLIC WORKS DEPARTMENT

THE CITY OF WATERBURY

CONNECTICUT

BUREAU OF ENGINEERING

Memorandum

2016 FEB 8 AM 10:44

WATERBURY CITY CLERK

To: Board of Aldermen

From: Paul M. Bellagamba, P.E., PWD Paul

Date: February 8, 2016

Re: Temporary Construction Lease Agreement for DOT Project 151-322 Between the City of Waterbury and Connecticut Department of Transportation (C161)

The Bureau of Engineering respectfully requests your approval of the above-referenced Temporary Construction Lease Agreement for DOT Project No. 151-322 between the City of Waterbury and the Connecticut Department of Transportation (CDOT).

CDOT is currently preparing plans for the upgrade of sidewalk ramps along Thomaston Avenue (SR 847) under a state project entitled "ADA Curb Ramp Installation – State Route 847" (Project #151-322). Consequently, the State will need to acquire certain property rights to facilitate installation of the ramps. Particularly, CDOT is proposing to temporarily lease from the City areas totaling 196 square feet of land, as shown on the attached sketches, to provide room for construction of the ramps. Impacts will be minor in nature and any disturbed areas will be restored by grading and seeding.

The Bureau of Engineering has reviewed these documents and hereby recommends that the City enter into the temporary lease agreement as outlined.

Attached are 20 copies of the proposed agreement for your review and consideration, plus one original copy for the City Clerk's Office.

Thank you.

PMB/pmb
attachment

F:\Engineering\01 Capital Projects\Engineering\C161 151-322 DOT Sidewalk Ramps\C161 Temp Lease\C161 BOA Approval Request.doc

185 SOUTH MAIN STREET • ONE JEFFERSON SQUARE BUILDING • WATERBURY, CONNECTICUT 06706
PHONE: (203) 574-6851 • FAX (203) 574-8277 • www.waterburyct.org

STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION

2800 BERLIN TURNPIKE, P.O. BOX 317546
NEWINGTON, CONNECTICUT 06131-7546
Phone: (860) 594-2394

RECEIVED
SEP 25 2015
OFFICE OF THE MAYOR
WATERBURY

September 18, 2015

CERTIFIED MAIL
The Honorable Neil M. O'Leary
Mayor
City of Waterbury
235 Grand Street
Waterbury, Connecticut 06702

RECEIVED
SEP 25 2015
CITY REG. COUNSEL

Dear Mayor O'Leary:

Subject: File No.: 151-322-016A, 16B, 20
Owner(s): City of Waterbury
Address: 235 Grand Street
Town: Waterbury

The Connecticut Department of Transportation (Department) wishes to give you notice of its intent to acquire certain property rights in connection with the project known as ADA Curb Ramp Installation-State Route 847. In this regard, the Department proposes to lease from you areas totaling 196 sq. ft. of land, as indicated on the enclosed lease sketches. Impacts will be minor in nature, and any disturbed areas will be restored by grading and seeding.

Attached for your review is a copy of the 10 month Temporary Construction Lease and the aforementioned lease sketch. The State's offer of compensation as evidenced by the attached lease is $500.00. Should you find this offer acceptable, please execute the Temporary Construction Lease in the presence of a notary. Please include a resolution (sample included) or other documentation indicating the person(s) authorized to sign on behalf of the City of Waterbury. Once the forms are completed, please return them to this office using the enclosed postage paid envelope. **It is strongly encouraged that you contact me directly so that I may assist you in completion of these forms.**

Please be advised, Section 13a-73b of the Connecticut General Statutes, as revised, authorizes the Commissioner of Transportation to acquire land, buildings, and property rights that he finds necessary for highway purposes. In the event that you fail to respond to the Department within 30 days of the date of this letter, or you are not agreeable to the States offer, the State will forgo the Temporary Construction Lease, and instead acquire a Temporary Construction Easement via eminent domain. You will still be entitled to compensation and will be advised of your rights in writing.

I am available to meet with you to assist in the execution of the lease document, provide notary services, and to answer any questions you may have concerning the proposed lease. Please contact me at the above telephone number or address no later than October 23, 2015.

Very truly yours,

Derrick P. Ireland
Titles Section
Division of Rights of Way

Enclosures

TEMPORARY CONSTRUCTION AREA LEASE
BETWEEN
STATE OF CONNECTICUT, DEPARTMENT OF TRANSPORTATION
AND
CITY OF WATERBURY CT ROUTE 847(THOMASTON AVENUE)
TOWN OF WATERBURY
FILE NO. 151-322-16A, 16B, 20

THIS TEMPORARY CONSTRUCTION AREA LEASE ("Agreement") is by and between the State of Connecticut, Department of Transportation ("Lessee"), James Redeker, Commissioner, acting herein by Terrence J. Obey, Director, Division of Rights of Way, duly authorized, and the City of Waterbury ("Lessor"), a Connecticut Municipal Corporation, with a mailing address of 235 Grand St., Waterbury, CT 06702 , acting herein by Neil M. O'Leary, Mayor, hereunto duly authorized.

WITNESSETH: THAT,

WHEREAS, the Lessee has requested the use of certain land, hereinafter described ("Premises"), for a temporary construction lease work area for the purpose of staging equipment, storing material, and use by personnel for the construction of a sidewalk and sidewalk ramp within the highway right of way.

WHEREAS, the Lessee has the authority pursuant to Sections 13a-73 and 13b-23 of the Connecticut General Statutes, as revised, to enter into this Agreement.

NOW, THEREFORE, KNOW YE:

The Lessor does hereby lease to the Lessee, subject to all stipulations, restrictions, specifications and covenants herein contained, the Premises bounded and described as follows:

Those certain parcels of land and improvements situated in the Town of Waterbury, County of New Haven, and State of Connecticut, on the easterly side of Thomaston Avenue (Route 847), containing a total of 196 square feet, more or less, as shown on lease sketches attached hereto and made a part hereof labeled Exhibit 1 titled "STATE OF CONNECTICUT DEPARTMENT OF TRANSPORTATION RIGHT OF WAY SURVEY TOWN OF WATERBURY LEASE SKETCH SHOWING AREA LEASED FROM INDICATED PROPERTY OWNER BY THE STATE OF CONNECTICUT DEPARTMENT OF TRANSPORTATION UPGRADE SIDEWALK STATE ROAD 847 THOMAS A HARLEY, P.E. CHIEF ENGINEER BUREAU OF ENGINEERING AND CONSTRUCTION" SERIAL NUMBERS 0151-0322-16A, 0151-0322-16B, 0151-0322-20.

1. The sole purpose of this Agreement is to allow the Lessee to, and the Lessee agrees that it will, use the Premises as a temporary work area for the purpose of constructing a sidewalk and sidewalk ramp within the right of way of Thomaston Avenue/Route 847. No improvements will be constructed within the Premises. The Premises shall be graded and seeded upon completion of the project.

2. The term of this agreement is for ten (10) months, commencing on March 1, 2016 and terminating on December 31, 2016.

3. Upon written approval of this Lease by the Attorney General of the State of Connecticut, the Lessee shall pay the Lessor Five Hundred Dollars ($500) as rent for the use of the Premises.

City of Waterbury
151-322-16A, 16B, 20

4. The Lessee shall have the right to extend this Agreement on a month-to-month basis, as needed, upon expiration of the term described above. The rental fee stated in Article 3 above shall be prorated for the term of the extension. The Lessee reserves the right to terminate this Agreement at its convenience.

5. This Agreement shall not be terminated by the Lessor.

6. The Lessor agrees that it shall not construct improvements within the Premises or prohibit the Lessee access to the Premises during the term of the Agreement.

7. If necessary, Lessee shall have the right to reconstruct portions of sidewalk, remove and, upon completion of construction, shall reset and/or replace any fences, and perform any grading and seeding on portions of Lessor's property that are not currently within the public right of way in order to facilitate construction.

8. The parties acknowledge and agree that nothing in the Agreement shall be construed as a modification, compromise or waiver by the Lessee of any rights or defenses of any immunities provided by Federal law or the laws of the State of Connecticut to the Lessee or any of its officers and employees, which they may have had, now have or will have with respect to all matters arising out of the Agreement. To the extent that this section conflicts with any other section, this section shall govern.

9. It is understood and agreed by the parties hereto, the Lessor shall not use the defense of Sovereign Immunity in the adjustment of claims or in the defense of any suit, including any suit between the Lessee and the Lessor, unless requested to do so by the Lessee.

10. The parties deem the Agreement to have been made in the City of Hartford, State of Connecticut. Both parties agree that it is fair and reasonable for the validity and construction of the Agreement to be, and it shall be, governed by the laws and court decisions of the State of Connecticut, without giving effect to its principles of conflicts of laws. To the extent that any immunities provided by Federal law or the laws of the State of Connecticut do not bar an action against the Lessee, and to the extent that these courts are courts of competent jurisdiction, for the purpose of venue, the complaint shall be made returnable to the Judicial District of Hartford only or shall be brought in the United States District Court for the District of Connecticut only, and shall not be transferred to any other court, provided, however, that nothing here constitutes a waiver or compromise of the sovereign immunity of the State of Connecticut. The Lessor waives any objection which it may now have or will have to the laying of venue of any claims in any forum and further irrevocably submits to such jurisdiction in any suit, action or proceeding.

11. By signing this Agreement, the Lessor attests to be the owner or authorized representative of the owner of the Premises and further attests to have the authority to sign this Agreement.

IN WITNESS WHEREOF, the parties hereto do hereby set their hands on the day and year indicated.

City of Waterbury
151-322-16A, 16B, 20

WITNESSES:

STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION
James Redeker, Commissioner

_____
Name:

By _____
Terrence J. Obey
Director, Division of Rights of Way

_____
Name:

STATE OF CONNECTICUT)
) SS: Newington
COUNTY OF HARTFORD)

Personally appeared for the Lessee, Terrence J. Obey, Signer and Sealer of the foregoing Instrument and acknowledged the same to be the free act and deed of the Department of Transportation and his free act and deed as Director, Division of Rights of Way, before me.

_____
Notary Public
My Commission Expires:

WITNESSES:

LESSOR
City of Waterbury

_____
Name:

By _____
Neil M. O'Leary
Mayor – Duly Authorized

_____
Name:

STATE OF CONNECTICUT)
) SS: Waterbury
COUNTY OF NEW HAVEN)

Personally appeared for the Lessor, Neil M. O'Leary, Signer and Sealer of the foregoing Instrument and acknowledged the same to be the free act and deed of the City of Waterbury, and his free act and deed as a Mayor, before me.

_____
Notary Public
My Commission Expires:

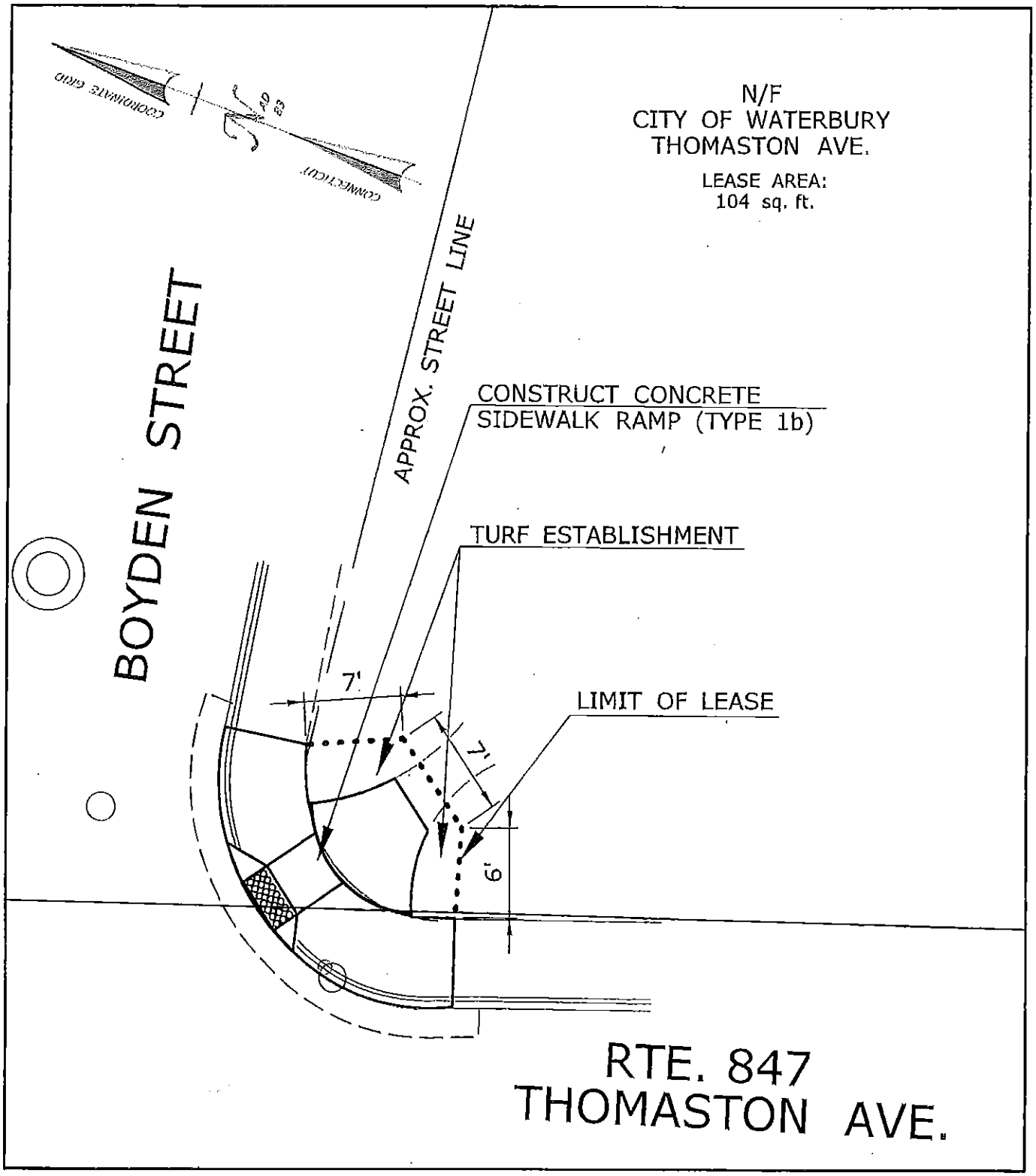
City of Waterbury
151-322-16A, 16B, 20

APPROVED PURSUANT TO CONN. GEN. STAT. SEC. 4b-26

GEORGE JEPSEN
ATTORNEY GENERAL

_____ DATE: _____
BY: JOSEPH RUBIN
ASSOCIATE ATTORNEY GENERAL

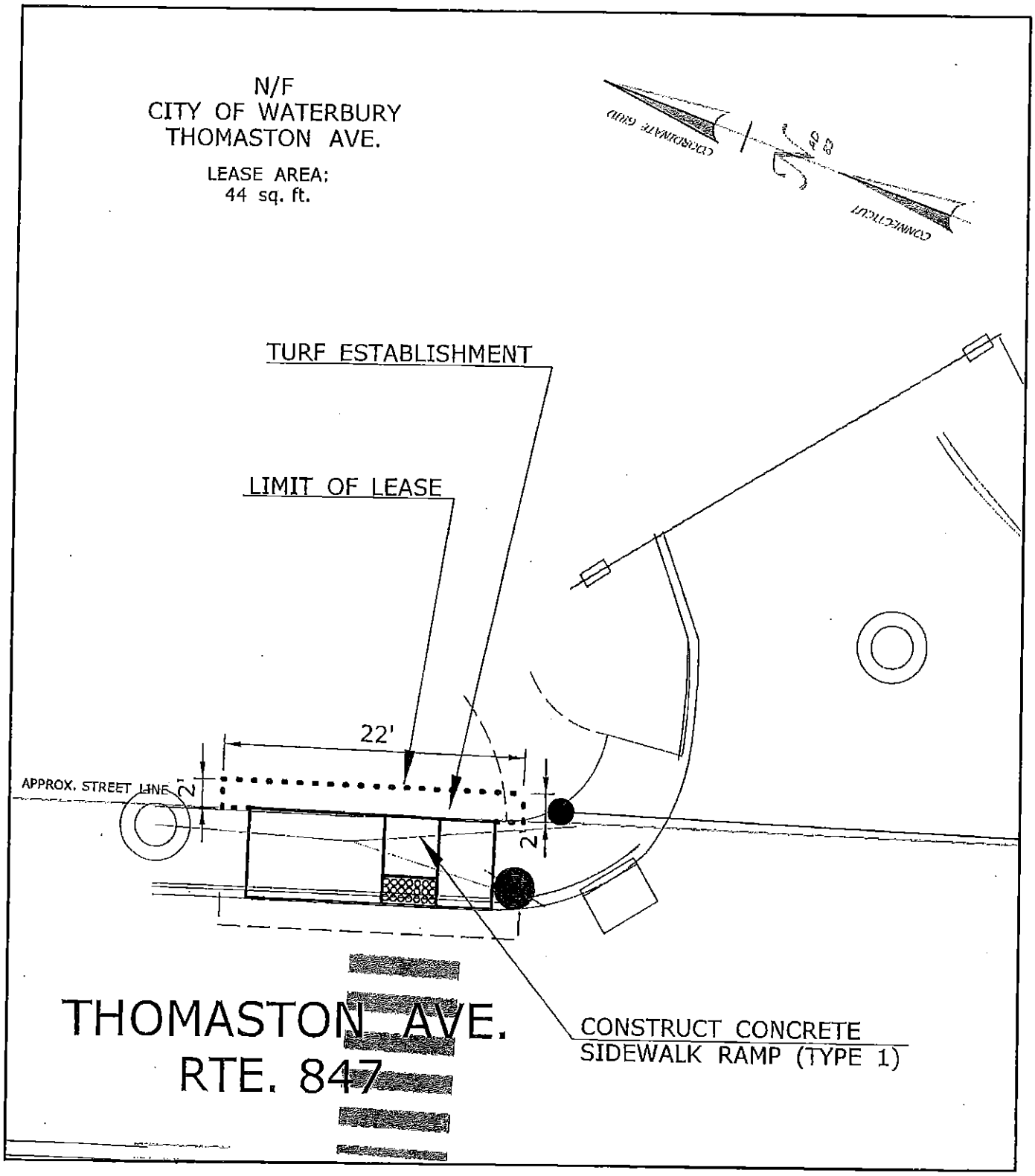
EXHIBIT 1



SCALE IN FEET

10 0 10 20

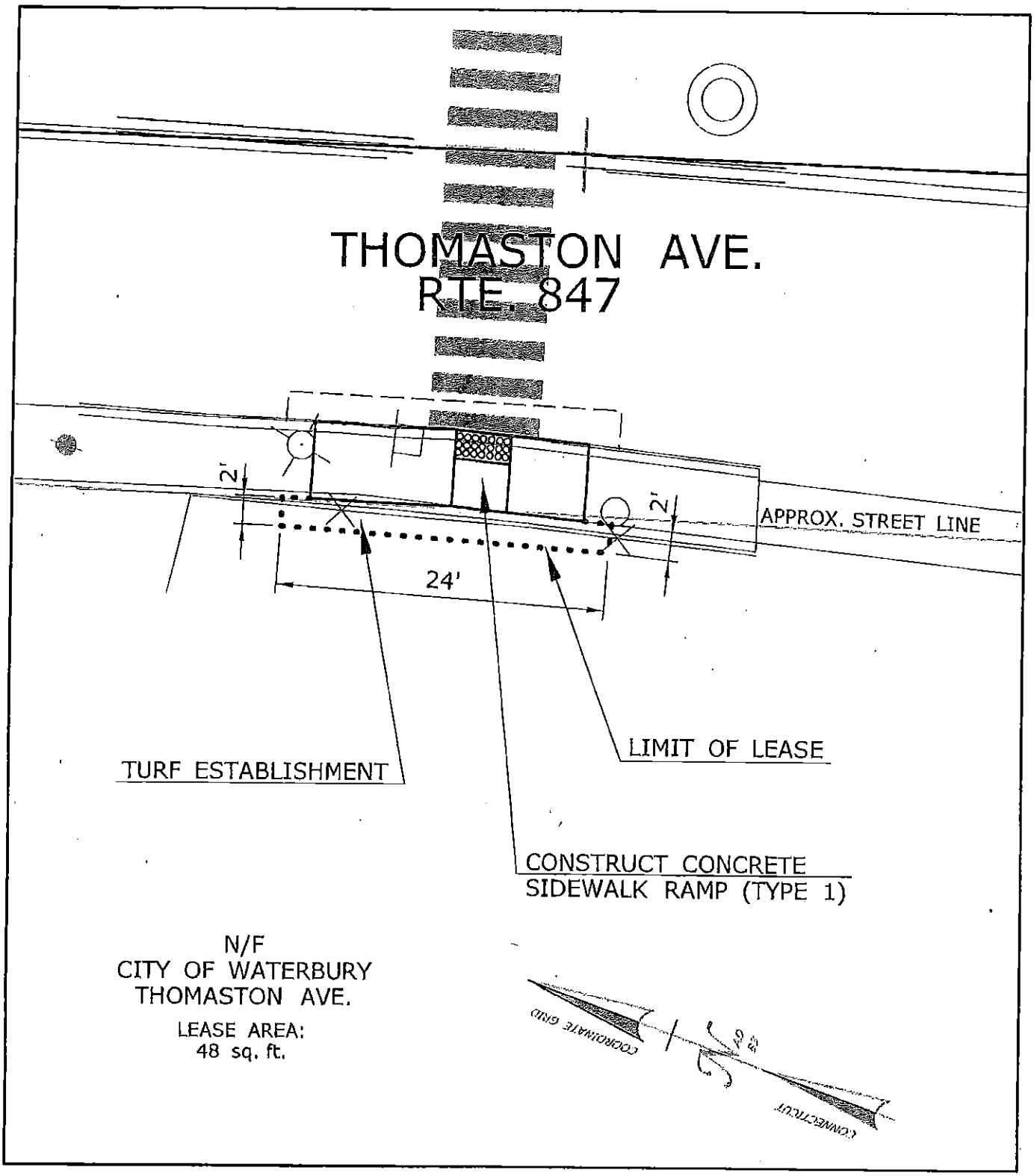
SERIAL NUMBER.: 0151-0322-16A	STATE OF CONNECTICUT DEPARTMENT OF TRANSPORTATION RIGHT OF WAY SURVEY TOWN OF WATERBURY LEASE SKETCH SHOWING AREA LEASED FROM INDICATED PROPERTY OWNER BY THE STATE OF CONNECTICUT DEPARTMENT OF TRANSPORTATION UPGRADE SIDEWALK STATE ROAD 847 THOMAS A HARLEY, P.E. CHIEF ENGINEER BUREAU OF ENGINEERING AND CONSTRUCTION	OFFICE OF ENGINEERING	DATE: FEB 2015
STATE PROJECT NO.: 151-322			DRAWN BY: JLG
CITY/TOWN: WATERBURY			CHECKED BY: EAJ
			SHEET: 1 of 2



SCALE IN FEET

10 0 10 20

SERIAL NUMBER.: 0151-0322-16B	STATE OF CONNECTICUT DEPARTMENT OF TRANSPORTATION RIGHT OF WAY SURVEY TOWN OF WATERBURY LEASE SKETCH SHOWING AREA LEASED FROM INDICATED PROPERTY OWNER BY THE STATE OF CONNECTICUT DEPARTMENT OF TRANSPORTATION UPGRADE SIDEWALK STATE ROAD 847 THOMAS A HARLEY, P.E. CHIEF ENGINEER BUREAU OF ENGINEERING AND CONSTRUCTION	OFFICE OF ENGINEERING	DATE: FEB 2015
STATE PROJECT NO.: 151-322			DRAWN BY: JLG
CITY/TOWN: WATERBURY			CHECKED BY: EAJ
			SHEET: 2 of 2



SCALE IN FEET

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SERIAL NUMBER.: 0151-0322-20	STATE OF CONNECTICUT DEPARTMENT OF TRANSPORTATION RIGHT OF WAY SURVEY TOWN OF WATERBURY LEASE SKETCH SHOWING AREA LEASED FROM INDICATED PROPERTY OWNER BY THE STATE OF CONNECTICUT DEPARTMENT OF TRANSPORTATION UPGRADE SIDEWALK STATE ROAD 847 THOMAS A HARLEY, P.E. CHIEF ENGINEER BUREAU OF ENGINEERING AND CONSTRUCTION	OFFICE OF ENGINEERING	DATE: FEB 2015
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			SHEET: 1 of 1