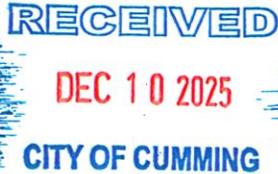


REZONING APPLICATION FORM
CITY OF CUMMING, GEORGIA

Rezoning Request # 2025163

Amount Paid _____ Receipt # _____

Property Owner: Name: EP Hernandez, LLC



Address: 310 Veterans Memorial

Bld. Cumming, GA 30040

Phone: 404-421-1144

Applicant: Name: Same as above

(if different from owner) Address: _____

Phone: _____

Agent: (if applicable) Name: Sean Courtney - Lipscomb Johnson LLP Phone: 770-887-7761

M-1

Existing Zoning: _____

Proposed Zoning: INST with CUP for restaurant

Existing Use: _____

Proposed Use: Special Events Facility

Acreage of Site: 0.964 acres

Location of Property: 219 Castleberry Road, Cumming, GA 30040

(street address) _____

Tax Map and Parcel # C16-110

Applicants shall submit (7) sets of application as follows in order; Application 3 pages, letter of intent, legal description with metes and bounds, plat survey, required site plans, developments plans, elevation drawings to the Zoning Administrative Officer for distribution to the applicable bodies and/or review agencies. The Zoning Administrative Officer may require more or less copies depending on the nature and extent of required review.

All (7) sets must be on 8 1/2 x 11 inch paper. Do not staple!

Please be advised of the following:

- 1) The applicant is bound by the submitted site plan and letter of intent if this application is approved.
- 2) It is a legal requirement that the public hearing for this Rezoning, be advertised in the legal County organ in addition to posting a rezoning sign on the subject property.

Complete the following information. (This section may be addressed in the letter of intent.)

1. The existing uses and zoning of nearby property and whether the proposed zoning will adversely affect the existing use or usability of nearby property.

See Letter of Intent for Items 1-9

2. The extent to which property values are diminished by the particular zoning restrictions.

3. The extent to which the destruction of property values promotes the health, safety, morals or general welfare of the public.

4. The relative gain to the public, as compared to the hardship imposed upon the individual property owner.

5. The physical suitability of the subject property for development as presently zoned and under the proposed zoning district.

6. The length of time the property has been vacant, considered in the context of land development in the area in the vicinity of the property; and whether there are existing or changed conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the rezoning request.

7. The zoning history of the subject property.

8. The extent to which the proposed zoning will result in a use which will or could cause excessive or burdensome use of existing streets, transportation facilities, utilities, schools, parks, or other public facilities.

9. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan, land use plan, or other adopted plans:

Property Owner's Certification

I hereby certify that I am the owner of the property described in the attached legal description, that all information contained in this application is true and correct to the best of my knowledge, and that the applicant and/or agent listed above is authorized to act as the applicant and/or agent in the pursuit of the rezoning of this property. I further certify that, within the past two years, the applicant has not made any campaign contributions or made gifts of \$250 or more to members of the Governing Body or Planning Commission who will consider this application, or that if such contributions or gifts have been made, the amount and recipient of such contributions or gifts will be disclosed within ten (10) days after this application is first filed, as required by Title 36, Chapter 85, Georgia Laws.

Signature of Property Owner: 

Printed Name of Property Owner: EP Hernandez, LLC by Oziel Rodriguez

Date of Signature: 12/5/2025

LAW OFFICES
LIPSCOMB JOHNSON LLP

112 NORTH MAIN STREET
CUMMING, GEORGIA 30040
TELEPHONE: 770-887-7761
FAX: 770-889-8123

EMORY LIPSCOMB
PUTNAM CLARK SMITH, P.C.
SEAN COURTNEY
ASHLEY B. MASHBURN
ANDERSON LIPSCOMB

COY R. JOHNSON, P.C.
(1928-2024)

L. LEE DAILEY
(1939-2013)

December 10, 2025

VIA HAND DELIVERY

City of Cumming Planning and Zoning Department
Attn: Mr. Scott Morgan, Zoning Administrator
100 Main Street
Cumming, Georgia 30040

Re: Letter of Intent as required by Section 113-110(3) of the Zoning Ordinance of the City of Cumming, Georgia – Rezoning for EP Hernandez LLC - Request No. 2025_____

Dear Mr. Morgan:

This letter of intent is submitted pursuant to Section 113-110(3), and by reference section 113-112, of the Zoning Ordinance of the City of Cumming, Georgia, as part of EP Hernandez LLC's (the "Applicant's") proposed Rezoning Application (the application and all supplemental documents filed contemporaneously therewith are collectively referred to herein as the "Application"). The Applicant is the owner of the property subject to this rezoning application, commonly known as Forsyth County Tax Parcel Number C16-110 (the "Subject Property"). The Applicant seeks to rezone the Subject Property from its existing M-1 zoning classification to the INST zoning classification with a Conditional Use Permit for a restaurant in order to utilize the existing structure for a special event facility.

With regard to the specific rezoning criteria and requested information contained in sections 1 through 9 of the Application, the Applicant hereby addresses them as follows:

The existing zoning of surrounding properties are M-1, CBD, INST and HB. Based on the fact that it is already adjacent to existing institutional property, the proposed rezoning will not adversely affect the existing use or usability of nearby properties but will rather complement existing use patterns.

Property values will not be affected by this rezoning request except the fact that the property values may rise due to the property being used as institutional rather than as industrial.

Approval of the Applicant's Application would not cause a safety hazard or noxious

Page 2 of 3

condition and therefore would promote the health, safety, morals and general welfare of the public.

The relative gain to the public is also estimated to be significant as the proposed institutional use will benefit those looking to attend and host events in the local community.

The Subject Property is physically suitable for development as requested by the Applicant under the INST zoning district and is not currently suitable for development under its existing zoning designation. Notwithstanding, the foregoing there is an existing building that the Applicant proposes to utilize.

The Subject Property is currently vacant, there are no existing or changed conditions affecting the use or development of the Subject Property, which would give supporting grounds for disapproval of the rezoning request.

As far as the Subject Property's zoning history is concerned, to the best of the Applicant's knowledge and belief, the Subject Property has at all times been zoned City of Cumming- M-1 and to the knowledge and belief of the Applicant has recently been a space for a local nonprofit.

It is not anticipated that the proposed rezoning will result in or cause excessive or burdensome use of existing streets, transportation facilities, utilities, schools, parks, or other public facilities as special events are typically hosted during off-peak hours.

The future land use map is consistent with institutional zoning.

Refusal to grant approval of the requested rezoning as described in the Rezoning Application would impose a disproportionate hardship on the Applicant without accruing any benefits to any surrounding property owners. The provisions of the Zoning Ordinance that require the development of the property to be different from the Applicant's plan are unconstitutional in that they would constitute a taking of the Applicant's property rights without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section 3, Paragraph 1 of the Constitution of the State of Georgia, and the Fifth and Fourteenth Amendments to the Constitution of the United States.

A refusal by the City of Cumming to approve this Application, so as to permit viable economic use of the property, would be unconstitutional and would discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and the owners of similarly situated property in violation of Article I, Section 1, Paragraph 2 of the Constitution of the State of Georgia and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Furthermore, a decision denying the Application would constitute an arbitrary and irrational abuse of discretion and constitute an unreasonable application of local land use authority bearing no relationship to the public health, safety, morality or general welfare of the public in violation of

Page 3 of 3

Article I, Section 1, Paragraph 1 of the Constitution of the State of Georgia and the Due Process Clause of the Fifth and Fourteenth Amendments to the Constitution of the United States. The Applicant maintains that a refusal to approve the Application as requested would be an abuse of discretion under the power granted to local governments by the Georgia Constitution and the Zoning Procedures Law, O.C.G.A. Section 36-66-1, et seq.

The Applicant reserves all other rights and privileges under the Constitutions of the United States and the State of Georgia, and available at law and in equity, in the event that the City of Cumming refuses to approve this Application as requested by the Applicant. The Applicant respectfully asks that the Application be approved as requested and reserves the right to amend this Letter of Intent and the Application by supplementing additional responses and documents

Thank you very sincerely and respectfully for your consideration of this request.

Sean Courtney,
Attorney for EP Hernandez LLC

LEGAL DESCRIPTION

All that tract or parcel of land lying in the City of Cumming in Land Lot 10 of the 2nd District, 1st Section of Forsyth County, Georgia, and in Land Lot 1270 of the 3rd District, 1st Section of Forsyth County, Georgia being as per a survey for EP Hernandez, LLC by Richard Webb & Associates dated August 19, 2025 and being more fully described as follows:

To establish the True Point of Beginning commence at the centerline intersection of West Maple Street and Castleberry Road, Thence along the centerline of Castleberry Road S13°22'13"W a distance of 760.79' to a Point; Thence leaving said centerline N73°25'16"W a distance of 48.61' to an IPS #4RB on the western R/W of Castleberry Road (R/W Varies); Said IPS #4RB being the True Point of Beginning.

With the True Point of Beginning being established;
Thence along said R/W

S15°32'22"W a distance of 167.98' to a R/W Mon;
Thence N74°50'18"W a distance of 249.44' to an IPS #4RB;
Thence N15°09'41"E a distance of 168.00' to an IPS #4RB;
Thence S74°49'59"E a distance of 250.55' to an IPS;
Which is the True Point of Beginning,

Together with and subject to covenants, easements, and
restrictions of record.

Having an Area of 0.964 Acres, 41,996.42 Square Feet

TOTAL = 0.964 ACRES
41,996.42 SQUARE FEET
ZONED M1
PARCEL C16 110

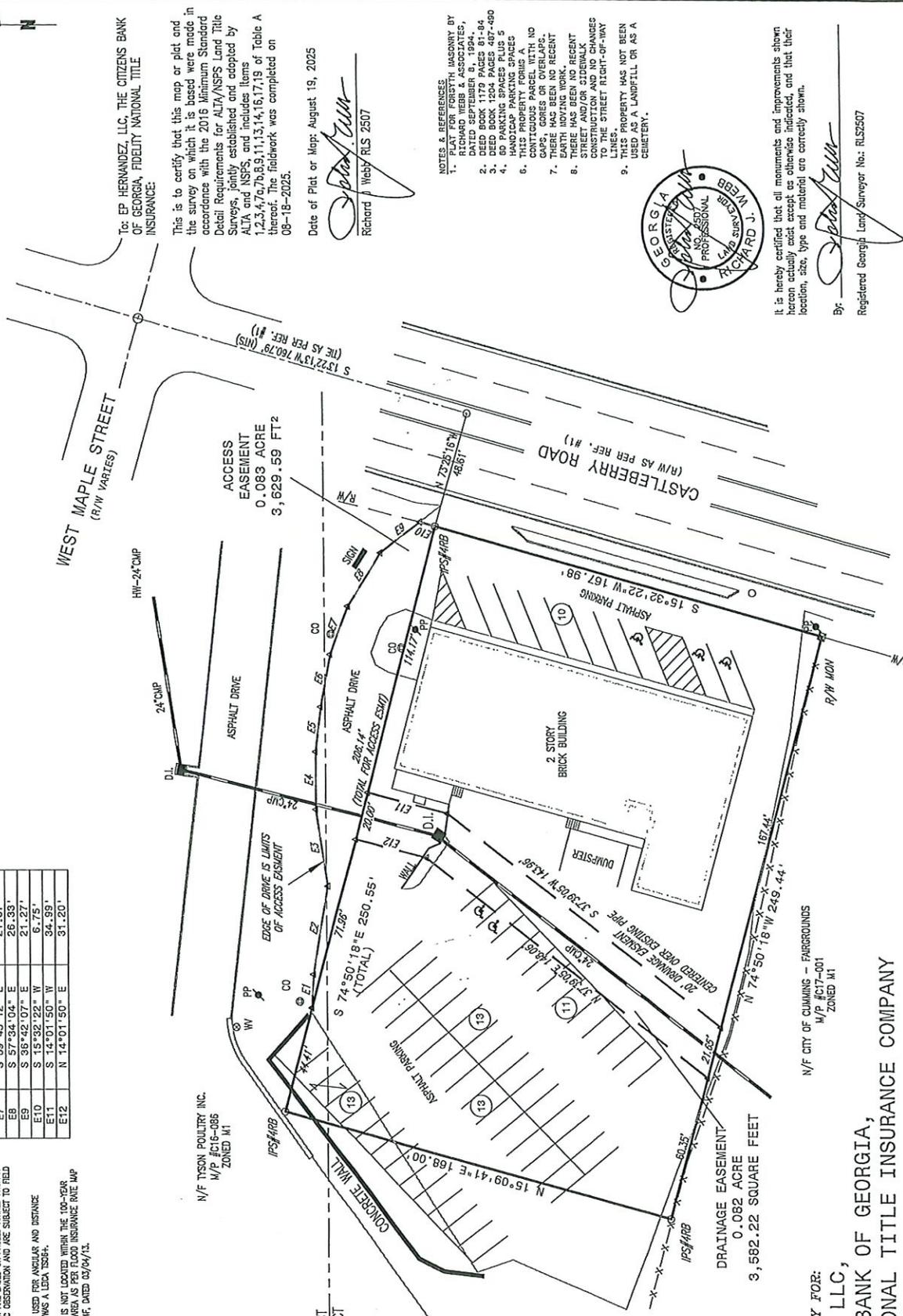
Course	Bear-Ing	Distance
E1	S 86°51'43" E	13.78'
E2	S 80°09'28" E	36.99'
E3	N 81°23'34" E	31.97'
E4	S 89°55'38" E	23.76'
E5	S 89°40'01" E	18.71'
E6	S 79°09'20" E	22.09'
E7	S 69°45'12" E	21.37'
E8	S 57°34'04" E	25.33'
E9	S 38°42'07" E	21.27'
E10	S 15°32'22" W	6.75'
E11	S 14°01'50" W	34.99'
E12	N 14°01'50" E	31.20'

DATE OF SURVEY: 10/14/21 & 08-18-2025
 THE FIELD DATA UPON WHICH THIS MAP IS BASED HAS A
 CLOSURE ERROR OF ONE FOOT IN N/A (OPEN TRANS)
 FEET, AN ANGULAR ERROR OF N/A SECONDS PER ANGLE
 POINT, AND WAS ADJUSTED USING THE LEAST SQUARES
 METHOD. THE ADJUSTED COORDINATES OF THE POINTS
 AND SIGHTS FOUND TO BE ACCURATE TO WITHIN ONE FOOT IN
 13,309 FEET.
 BEARINGS SUCH AS ARE BASED ON ANGLES TURNED FROM A
 SINGLE MAGNETIC OBSERVATION AND ARE SUBJECT TO FIELD
 CONDITIONS.
 THE EQUIPMENT USED FOR ANGULAR AND DISTANCE
 MEASUREMENTS WAS A LEICA TS36A.
 THIS PROPERTY IS NOT LOCATED WITHIN THE 100-YEAR
 FLOOD HAZARD AREA AS PER FLOOD INSURANCE RATE MAP
 NO. 13117104R, DATED 03/04/13.

LEGEND OF SINGS
 BDC = BUILDING SETBACK LINE
 P/W = PROPERTY LINE
 R/W = RIGHT OF WAY
 LL = LAND LOT
 V/L = VERTICAL CURVE
 P/B = POINT OF BEGINNING
 N/T = NOT TO SCALE
 B/S = BOUNDARY SURVEY
 I/S = IRON PIN SET
 C/M = CORNER MARKER
 R/B = REBAR
 C/P = CHAIN TO PIPE
 S/R = SLOPE ROD
 S/O = SQUARE ROD
 A/P = ANGLE IRON FOUND
 C/P = CORRUGATED METAL PIPE
 C/P = CONC. PIPE
 W/W = WATER WALKER
 W/W = WATER WALKER
 W/W = WATER WALKER
 U/G = UNDERGROUND
 C.O. = SINKER CLEAN-OUT
 S/S = SANDSTRY SINKER
 F/I = FINISHED FLOOR ELEV.
 F/I = FIRE HYDRANT
 D/E = DRAINAGE EASIMENT
 D/I = DRAINAGE INLET
 L/P = LOT GRADING PLAN
 S/CB = SINGLE WHIC CATCH BASIN
 D/CB = DOUBLE WHIC CATCH BASIN
 P = POWER LINE
 S/S = SANDSTRY SINKER LINE
 S/S = SANDSTRY FORCE MAIN
 W/W = WATER WALKER
 W/W = WATER WALKER
 W/W = FENCE LINE

3rd DISTRICT
 2nd DISTRICT
 LL 10

N/F TYSON POULTRY INC.
 M/P #C16-085
 ZONED M1



PROPERTY INFO:
 210 CASTLEBERRY RD
 CUMMING GA 30040

ALTA/NSPS TITLE SURVEY FOR:
 EP HERNADEZ, LLC,
 THE CITIZENS BANK OF GEORGIA,
 FIDELITY NATIONAL TITLE INSURANCE COMPANY
 IN THE CITY OF CUMMING
 LAND LOT 10
 2ND DISTRICT-1ST SECTION
 LAND LOT 1270
 3RD DISTRICT-1ST SECTION
 FULTON COUNTY, GEORGIA
 AUGUST 19, 2025



To: EP HERNADEZ, LLC, THE CITIZENS BANK
 OF GEORGIA, FIDELITY NATIONAL TITLE
 INSURANCE:

This is to certify that this map or plat and
 the survey on which it is based were made in
 accordance with the 2016 Minimum Standard
 Detail Requirements for ALTA/NSPS Land Title
 Surveys, jointly established and adopted by
 ALTA and NSPS, and includes items
 1,2,3,4,7,6,8,9,11,13,14,15,17,19 of Table A
 thereof. The fieldwork was completed on
 08-18-2025.

Date of Plat or Map: August 19, 2025
 Richard J. Webb RLS 2507

- NOTES & REFERENCES:
1. PLAT FOR FORTSMITH MASONRY BY RICHARD WEBB & ASSOCIATES, DEED BOOK 1170 PAGES 81-84
 2. DEED BOOK 1204 PAGES 487-490
 3. DEED BOOK 1204 PAGES 487-490
 4. 60 HANDICAP PARKING SPACES
 5. THIS PROPERTY SHOWN WITH NO GORES OR OVERLAPS.
 6. THERE HAS BEEN NO RECENT EARTH MOVING WORK.
 7. THERE HAS BEEN NO RECENT CONSTRUCTION AND NO CHANGES TO THE STREET RIGHT-OF-WAY LINES.
 8. THIS PROPERTY HAS NOT BEEN USED AS A LANDFILL OR AS A CEMETERY.



It is hereby certified that all monuments and improvements shown hereon actually exist except as otherwise indicated, and that their location, size, type and material are correctly shown.

By: *Richard J. Webb*
 Registered Georgia Land Surveyor No. RLS2507

TECHNICAL LAND SERVICES INC. d/b/a/
 RICHARD WEBB & ASSOCIATES
 Land Surveying Consultants
 P.O. BOX 351 CUMMING GA 30028 (770)-899-6103
 100 KELLY HILL ROAD CUMMING GA 30040
 Email: rjwebb@rcs.com

JOB NO.
25189
 SHEET 1 OF 2

EP Hernandez, LLC

Zoning Conditions

1. The following uses shall not be permitted on the subject property:

- a. convenience stores, with or without gasoline pumps;
- b. hotels or motels
- c. theaters
- d. electronic game playing centers
- e. adult entertainment centers
- f. adult novelty stores
- g. pawn shops;
- h. pool halls;
- i. tattoo parlors;
- j. daycare or school
- k. guesthouse
- l. institutional residential living and care facility

- 2. Plans for any remodeling/renovation must be approved, and permits issued by, the Department of Planning and Zoning staff.
- 3. Any reconstruction or expansion beyond 10% of the existing footprint, must be approved by the Design Review Board.
- 4. The building must be connected to the Department of Utilities public water & sanitary sewer.
- 5. Landscaping, lighting and parking plans must be approved by the Department of Planning and Zoning staff.

CUMMING EVENT HALL
 219 CASTLEBERRY RD.
 CUMMING, GA 30040
 HERNANDEZ

PKR ARCHITECTS
 ARCHITECTS
 1000 W. BUCKLEBOURNE DR.
 SUITE 100
 ALPHARETTA, GA 30007
 404-771-7900

NO.	DESCRIPTION	QTY	UNIT	PRICE	TOTAL
1	1.0000	1.00	EA	100.00	100.00
2	2.0000	2.00	EA	200.00	400.00
3	3.0000	3.00	EA	300.00	900.00
4	4.0000	4.00	EA	400.00	1600.00
5	5.0000	5.00	EA	500.00	2500.00
6	6.0000	6.00	EA	600.00	3600.00
7	7.0000	7.00	EA	700.00	4900.00
8	8.0000	8.00	EA	800.00	6400.00
9	9.0000	9.00	EA	900.00	8100.00
10	10.0000	10.00	EA	1000.00	10000.00
11	11.0000	11.00	EA	1100.00	12100.00
12	12.0000	12.00	EA	1200.00	14400.00
13	13.0000	13.00	EA	1300.00	16900.00
14	14.0000	14.00	EA	1400.00	19600.00
15	15.0000	15.00	EA	1500.00	22500.00
16	16.0000	16.00	EA	1600.00	25600.00
17	17.0000	17.00	EA	1700.00	28900.00
18	18.0000	18.00	EA	1800.00	32400.00
19	19.0000	19.00	EA	1900.00	36100.00
20	20.0000	20.00	EA	2000.00	40000.00
21	21.0000	21.00	EA	2100.00	44100.00
22	22.0000	22.00	EA	2200.00	48400.00
23	23.0000	23.00	EA	2300.00	52900.00
24	24.0000	24.00	EA	2400.00	57600.00
25	25.0000	25.00	EA	2500.00	62500.00
26	26.0000	26.00	EA	2600.00	67600.00
27	27.0000	27.00	EA	2700.00	72900.00
28	28.0000	28.00	EA	2800.00	78400.00
29	29.0000	29.00	EA	2900.00	84100.00
30	30.0000	30.00	EA	3000.00	90000.00
31	31.0000	31.00	EA	3100.00	96100.00
32	32.0000	32.00	EA	3200.00	102400.00
33	33.0000	33.00	EA	3300.00	108900.00
34	34.0000	34.00	EA	3400.00	115600.00
35	35.0000	35.00	EA	3500.00	122500.00
36	36.0000	36.00	EA	3600.00	129600.00
37	37.0000	37.00	EA	3700.00	136900.00
38	38.0000	38.00	EA	3800.00	144400.00
39	39.0000	39.00	EA	3900.00	152100.00
40	40.0000	40.00	EA	4000.00	160000.00
41	41.0000	41.00	EA	4100.00	168100.00
42	42.0000	42.00	EA	4200.00	176400.00
43	43.0000	43.00	EA	4300.00	184900.00
44	44.0000	44.00	EA	4400.00	193600.00
45	45.0000	45.00	EA	4500.00	202500.00
46	46.0000	46.00	EA	4600.00	211600.00
47	47.0000	47.00	EA	4700.00	220900.00
48	48.0000	48.00	EA	4800.00	230400.00
49	49.0000	49.00	EA	4900.00	240100.00
50	50.0000	50.00	EA	5000.00	250000.00

