



**HIGHWAY DIVISION  
PROJECT DELIVERY BUREAU**

**OFFICE OF RIGHT OF WAY  
CONDEMNATION MANUAL**

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### ***CONDEMNATION UNIT FUNCTION***

The primary function of the Condemnation Unit is to prepare the documents necessary for the acquisition of right of way and other land required for the improvement and/or maintenance of roads and streets in the State of Iowa and for other public purposes, all by the exercise of the state's right of Eminent Domain. The Condemnation Unit functions under the direct supervision of the Fiscal & Title Supervisor, but the Unit's activity is generally controlled by the Office of the General Counsel assigned to the Highway Division of the Iowa Department of Transportation.

### ***CONDEMNATION UNIT RESPONSIBILITIES***

Perform a title review and audit the parcel to determine all interested parties, including who has merchantable title, lien holders and other encumbrances of the land to be acquired through reviewing the title documents, information contained in the parcel file and online sources.

Prepare the documents necessary to conduct a hearing and comply with statutes and service procedures.

Coordinate with county Sheriff offices to schedule condemnation hearings.

Ensure proper retention of information in the Right of Way parcel file.

Determine when possession of parcels has been acquired and update the Highway Division Project Scheduling System accordingly.

### ***CONDEMNATION POLICY***

Policy and Procedures of the Condemnation Unit is governed by statutes, rules, and court decisions. This manual references many of these sources for particular policies and/or procedures including: Iowa Constitution, Code of Iowa (IC), Rules of Civil Procedure and others. As these laws change, please refer to the most current. The Condemnation Unit uses other references as well, including the following:

- Eminent Domain in Iowa - prepared under the auspices of the Office of the Iowa Attorney General

#### ***State's Right of Eminent Domain***

The State of Iowa has the inherent right of sovereignty or supreme dominion, over all real property within the State. This power or right authorizes the State to acquire private property for public purposes (IC Section 6A.1) and is generally referred to as the State's right of Eminent Domain. The acquisition of highway right of way by condemnation is an example of the exercise of the State's right of Eminent Domain.

Eminent Domain terminates a private property owner's right to own, hold, use and enjoy real property when it becomes necessary to devote the property to the use and enjoyment of the public as a whole. While both the Iowa Constitution and the Code of Iowa speak primarily of private property being condemned for public use, both private and public property may be condemned for public use.

Condemnation of property is not permitted if the purpose of the exercise of the power of Eminent Domain is not for a valid public use.

***Just Compensation***

The ultimate objective of the Eminent Domain procedure is to convert the use of (or acquire) the property but inherent with this goal is the responsibility to provide just compensation to the property owner(s) for what was lost.

This right to compensation for property acquired through Eminent Domain is guaranteed by both the Federal and State Constitutions. Article I, Sec. 18, Iowa Constitution states:

"Private property shall not be taken for public use without just compensation first being made or secured to be made to the owner thereof, as soon as the damages shall be assessed by a jury, who shall not take into consideration any advantages that may result to said owner on account of the improvement for which it is taken."

***DOT's Authority to Exercise Right***

The State Legislature has delegated to the Iowa Department of Transportation the authority to act for the State in the exercise of the State's power of Eminent Domain. This delegated authority to the Iowa Department of Transportation is found in parts of the following chapters of the Code of Iowa, (IC):

- Chapter 6A                    Eminent Domain Law (Condemnation)
- Chapter 6B                    Procedure Under Eminent Domain
- Chapter 17A                  Administrative Procedure Act
- Chapter 28E                  Joint Exercise of Governmental Powers
- Chapter 28F                  Joint Financing of Public Works and Facilities
- Chapter 306                  Establishment, Alteration and Vacation of Highways
- Chapter 306A                Controlled - Access Highways
- Chapter 306B                Outdoor Advertising along Interstate Highways
- Chapter 306C                Junkyard Beautification and Billboard Control
- Chapter 307                  Department of Transportation (DOT)
- Chapter 307A                Transportation Commission
- Chapter 313                  Primary Roads
- Chapter 314                  Administrative Provisions for Highways

### ***Purposes***

IC Sec. 306.19 provides that the agency having jurisdiction and control of such road is authorized to purchase or to institute and maintain proceedings for the condemnation of the necessary right of way for the maintenance, relocation, establishment or the improvement of any road, including the extension of such road within cities. This section also provides the authority to purchase or institute and maintain proceedings for the condemnation of land necessary for highway drainage, or land containing gravel or other suitable material for the improvement or maintenance of highways, together within the necessary road access or right of access thereto. Acquisition either by purchase or condemnation under this statute is limited to that land which is necessary for the purpose as stated.

### ***Office of Right of Way's Duties***

IC Chapter 6B describes in detail the procedure for condemnation of private property for highway purposes by the State of Iowa. IC Sec. 6B.2 provides that such proceedings shall be conducted by the attorney general when the damages are payable from the state treasury, and then further states that the section shall not be construed as prohibiting any other authorized representative from conducting such proceedings.

All condemnation proceedings are accordingly approved and held under the general control of the Office of the General Counsel assigned to the Highway Division, Department of Transportation (IC Sec. 307.23 and 6B.2). The duty to prepare, schedule, coordinate and appear at such proceedings on behalf of the Iowa DOT is delegated to the Office of Right of Way.

### ***Limitations on Right to Condemn***

As a general rule, the right to condemn must be specified in a statute. The existence of the right to condemn for a specific public purpose will not be implied. Conversely, once the power to condemn for a specific public purpose has been granted by statute, the application of that power will be liberally interpreted to affect the stated public purpose.

CAVEAT: It is assumed that all prior actions taken on the proposed acquisition have complied with Federal and State guidelines, including, but not limited to, the proper appraisal and negotiation procedures.

### ***DETERMINATION OF PARCELS TO BE CONDEMNED***

The Right of Way Acquisition Unit may submit a parcel to be acquired by condemnation because a contractual agreement could not be reached or clear title could not be obtained other than through the condemnation process. When the situation dictates condemnation is usually the result of one of two issues:

### ***No Contractual Agreement***

Good faith negotiations for a parcel have failed, and there is total rejection of the offer by all or part of the landowners involved. The State's offer to consenting owners is conditioned upon the State's receipt of the signature of all owners on the agreement.

### ***Title Issues***

Clear title is of concern - this includes a variety of situations. The land ownership may be so severely encumbered that the fee owner is unable to convey merchantable title. Parcels with any of the following are examples: several or extensive judgment or other liens, assets of a receiver in bankruptcy, or subject to a pending foreclosure or execution.

Parcels are also condemned where title itself is so complex or title holders are so numerous that, despite a diligent search, the status of title prevents meaningful negotiations. Examples of such title conditions are: a nonresident owner who has not been located, severely fractionalized and diverse ownership, unknown heirs, remote or contingent ownership and interests being held by persons under legal disability.

## ***TRANSMITTAL OF PARCELS TO BE CONDEMNED AND ASSIGNMENT TO AGENT***

Where good faith negotiations for a parcel appear to have failed or severe title problems exist, the Acquisition Agent shall recommend that the parcel be condemned. All recommendations shall be made in writing on the **Information for Condemnation Proceedings** form. The form shall be filled out and signed by the Acquisition Agent, the Acquisition Production Coordinator and approved by the Acquisition Supervisor.

After a determination has been made to submit the parcel to the Condemnation Unit for processing, the Acquisition Production Coordinator will transmit the file to the Condemnation Unit and notify the owner(s) by mail that condemnation proceedings will be initiated. Negotiations will continue from the time the parcel is submitted up to the condemnation hearing.

Upon transmittal of the file to the Condemnation Unit, the Condemnation Unit Coordinator shall sign the **Information for Condemnation Proceedings** form and place the parcel in a group based on land use. Parcels are grouped together so that more than one property may be acquired at one hearing. Parcels will be grouped with primary consideration being whether parcels are agricultural or non-agricultural. Agricultural parcels cannot be grouped with non-agricultural parcels because of the difference in the qualifications of Commissioners. Other considerations for grouping are: similarity of properties, extent of acquisition, proximity from one parcel to the other for convenience of viewing on the day of the hearing and common ownerships. Groups will be named as group "A", group "B", etc. Priorities are assigned to each group in accord with the following: production schedule, the acquisition of an owner occupied house, outbuilding, garden, or orchard; next priority is if publication of the Notice is required, such as out of state interest holders or title problems.

The Condemnation Unit Coordinator will assign the parcel to the Condemnation Unit Agent ("Agent"), specifying Group, land use and due date.

## ***TITLE REVIEW***

Each file submitted to the Condemnation Unit shall be subject to a title review which is performed by the Agent. The purpose of this review is to determine all interested parties, including who has merchantable title, lien holders and other encumbrances of the land to be acquired.

A **Report of Ownership and Liens** or Deed Information (if a **Report of Ownership and Liens** is not required) is ordered and made available by the Right of Way Design Section when the parcel is created. The Agent shall review this **Report of Ownership and Liens** to verify current ownership and check if any of the following items will affect the proposed acquisition:

- Easements, Leases or other Land Use Agreements
- Current Contracts for sale of real estate
- Mortgages
- Judgments and Liens
- Divorce Decrees
- Life Estates
- Estates/Conservatorships/Trusts
- Corporation, Partnership or LLC Ownership

If the **Report of Ownership and Liens** is over 60 days old, the Agent shall order a title update, to be furnished by an approved abstractor, which will bring the title information current. No update is necessary if the interest to be condemned is a tenant only.

In addition to reviewing the title information, the Agent shall also verify addresses contained on the **Information for Condemnation Proceedings** form, provided by the Acquisition Section, for the interested parties. The correct addresses are necessary to ensure proper service and notice to all parties. An online search may be necessary, particularly to check the addresses for partnerships, corporations, LLCs, and lending institutions. This online records search may include:

Iowa Secretary of State site <http://sos.iowa.gov/>

NIC Lender Information <http://www.ffiec.gov/nicpubweb/nicweb/SearchForm.aspx>

NOTE: The "Registered Agent" is the preferred contact name and address for any partnership, corporation, LLC or lending institution that is registered with the Iowa Secretary of State.

## ***AUDITING THE PARCEL***

In addition to reviewing title, the Agent shall also audit the parcel information to ensure that all of the proposed property rights are properly identified, valued and listed to be acquired, and that all of the requirements are addressed (See ***Condemnation Checklist***). Using the parcel information, the Agent should determine:

- Type of Acquisition (Partial or Total) (Fee or Easement)
- Acres or square footage to be acquired
- Excess land identified
- Acquisition in the name of the State, County, or City
- If Easement acquisition - what purpose
- Temporary Easement needs
- Underlying fee to be acquired
- Access rights to be acquired
- Access Location Points
- Entrance information
- Location of Acquisition (i.e. Section, Township, Range, ¼ ¼ or Subdivision, Block, Lot)
- Possible tenants or other interested parties

The Agent shall also review the draft of the purchase agreement and supporting documents submitted by the Right of Way Acquisition Unit to ensure consistency and accuracy regarding the following items:

- County, Project, Parcel, Route
- Seller names and marital status
- Location of proposed acquisition (brief legal description)
- Access Rights acquired
- Payment amount and Performance terms
- Land by Fee Title to whom and acres/square feet
- Underlying Fee Title and acres/square feet
- Permanent Easement for "purpose", to whom and acres/square feet
- Fencing
- Buildings/Improvements acquired
- Items salvaged back to owner
- All applicable clauses including tenant, temporary easement, entrance locations, etc.
- All appropriate attachments

NOTE: If any information is found to be incorrect or missing as a result of this audit, notify the Condemnation Unit Coordinator.

### ***Compatibility For Condemnation***

Auditing the parcel information shall also include a review of basic assumption inherent in the parcel itself. These may include:

Design Assumptions - Right of Way layouts are completed, appraisals written, and agreements prepared on the presumption that the necessary rights will be acquired by purchase. Occasionally, it may be desirable to alter the layout to reach a contractual agreement. The Condemnation Unit Coordinator will review the parcel from the standpoint of defense at the condemnation hearing.

Often, two or more parcels will be established by the Right of Way Design Section and appraised as separate parcels in spite of a unity of ownership and use. To comply with applicable condemnation statutes these parcels may have to be condemned as a single parcel. Conversely, a parcel may have a portion of the land on which factors of ownership or usage dictate that it must be considered as two or more separate parcels. In the preliminary review, the Condemnation Unit Coordinator should recognize these situations and should make certain these parcels are properly combined or separated. Also, the appraisals should be properly modified in accord with the above mentioned situations.

Agreement Assumptions - Any concessions or modifications that may have been offered in an attempt to negotiate an agreement may be considered. Judgment should be used in deciding whether or not to include in the condemnation any concessions contained in the proposed contract. Generally they are not. However, physical changes requested by the owner during negotiations that do not deter from the integrity of the design may be included in the condemnation proceedings. An exception to these guidelines is the owner's election to move a building(s) or fence rather than sell it. This election is the owner's statutory right and must be complied with - even if it increases the overall cost. If a building(s) or fence is involved in the acquisition, the owner has the statutory right to have the building(s) or fence moved rather than purchased. The owner's election to sell or move building(s) or fence must be documented. As well, an election to move rather than sell requires an approved Right of Way Design Revision form be submitted.

If a revision(s) seems to be in order, the Condemnation Unit Coordinator will discuss the proposed revision with the Right of Way Design Section to assure that it will satisfy the needs of construction. The revision(s) will then be discussed with and approved by the Right of Way Design Supervisor and processed in accord with departmental policy. If the revision(s) affects the appraisal, the Condemnation Unit Coordinator will notify the Appraisal Production Coordinator and arrange for a revised appraisal.

### ***PLAT PROOFING AND REVIEW***

The original **Acquisition Plat**, **Excess Land Plat** and legal description of the acquisition prepared by the Licensed Land Surveyor shall be reviewed by the Agent. If the parcel requires temporary easement acquisition, the Agent shall contact the Land Surveyor and request a **Graphic Exhibit "B"** and description of the temporary easement area. If the parcel is a total acquisition, the Agent shall also coordinate with Right of Way Design Section to create a **Graphic Exhibit "A"**.

NOTE: If proposed acquisition includes excess land, separate plats must be provided to illustrate what part of the acquisition is needed for the public improvement and what part is an uneconomical remnant (excess).

**PREPARATION OF CONDEMNATION NOTICE**

Using the information from the title review, auditing the parcel and the plat review, the Agent may start drafting the **Condemnation Notice** which contains the following segments: (See Example below)

1. HEADING	<p>In the Matter of Condemnation of Certain Rights in Land by the Iowa Department of Transportation for the Improvement of</p> <p style="text-align: center;">Primary Road No. U.S. 169 north of <span style="float: right;">Notice</span></p> <p style="text-align: center;">Dallas Center</p> <p style="text-align: center;">located in Dallas County, Iowa</p> <p style="text-align: center;">Project No. FN-169-4(36)--21-25</p> <p style="text-align: center;">Group "A"</p>
2. TO WHOM LISTING OF CONDEMNNEES & TOTAL OWNERSHIP BY ¼ ¼ OR LOT, BLOCK	<p>To:</p> <p>Jane Doe, RR, No Place, Iowa John Doe, RR, No Place, Iowa Federal Land Bank of a City, No Name Street, a City, a State John Q. Public, R.R., Box Number, a City, Iowa No Name County, Iowa, c/o County Auditor, No Name City, Iowa</p> <p>and to all other persons, companies or corporations having any interest in or owning any of the following described real estate:</p> <p>The SW¼SE¼ and SE¼SE¼ of Sec. 19, T81N, R27W of the 5th P.M., Dallas County, Iowa.</p>
3. NOTICE LANGUAGE	<p>You, and each of you, are hereby notified that the State of Iowa desires certain rights in land more specifically described as follows and shown with reference to their location as to lands affected on the plat Exhibit "A" attached hereto and to the Application filed with the Chief Judge of the Judicial District containing Dallas County, Iowa, and in the Office of the Sheriff of Dallas County, Iowa, to which you are referred:</p>
5. LEGAL DESCRIPTION OF AREA TO BE ACQUIRED	<p>The easement for highway purposes sought to be appropriated is in land described as follows: <span style="float: right;">LEAD IN CLAUSE</span></p> <p>A parcel of land located in the SE¼SE¼ of Sec. 19, T81N, R27W of the 5th P.M., Dallas County, Iowa, <span style="float: right;">GENERAL DESCRIPTION</span> as shown on the plat Exhibit "A" attached hereto and by reference made a part thereof.</p> <p>Said parcel is described as follows: The west 42 ft. of the east 75 ft. of the SE¼SE¼ of Sec. 19, T81N, R27W, <span style="float: right;">SPECIFIC DESCRIPTION</span> Dallas County, Iowa, containing 1.25 acres, more or less.</p>
5. SPECIAL PROVISION CLAUSES	<p>In connection with this condemnation proceeding it is specifically provided as follows:</p> <ol style="list-style-type: none"> <li>1. Any and all improvements, including fences or agricultural crops, if any, located wholly within the land sought by easement for highway purposes are condemned in their entirety.</li> <li>2. Any (year) crops growing on the land sought to be appropriated are reserved to the condemnees until December 1, (year). Any crops not removed by said date shall become the property of the State of Iowa to dispose of as is deemed fitting.</li> <li>3. Any farm field drainage tile, or outlets, which are located within the land being acquired under this proceeding, and are damaged or destroyed by highway construction, shall be relocated, replaced or restored by the condemnor and at no expense to the condemnees, and the State of Iowa shall have a right of temporary easement as necessary over condemnees' remaining property for the specific purpose of effecting such relocation, replacement or restoration.</li> </ol>

### ***Heading***

List the Primary Road No., the highway location as to the nearest city, county, project number, and group number.

### ***To Whom - Interested Parties - Condemnees***

All interested parties, identified in the Title Review and Parcel Audit, will be listed on the **Condemnation Notice** as condemnees, with their service addresses. These include the following in order:

- Fee owners, and spouses, if any (including life estate tenants and contingent remaindermen, if any)
- Contract purchasers and spouses, if any
- Major leasehold interest holders, or tenants, if any
- Licensees or easement owners, if any
- Mortgage, judgment or lien holders, if any
- The Clerk of Court (if any court costs for judgments are outstanding)
- Tax lien holders, if any
- Mineral estate holders, if any
- County Auditor (and City Clerk, if property to be acquired is in the corporate limits) as taxing authorities.

Strict adherence to the statutory procedures of notice to proper parties is required. Service is jurisdictional and improper service of notice on an interested party would render the proceedings against that party void.

If condemnees are listed different ways (John Doe, John A. Doe, John Albert Doe) on title documents, list all variations of the names using "also known as" between the various ways. Also, use similar variations when other circumstances exist, such as, "doing business as", "formerly known as", "successor in interest to".

If the interest to be acquired is a temporary easement only, easement holders, mortgage holders, city and/or county are not named because no permanent interest is being acquired.

In the case of a tenant interest only, city and/or county are not named as well, unless the tenant owns improvements or buildings located on the property that are subject to real estate tax.

### ***Total Ownership Description***

A general description of the property affected. IC Section 6B.3(1) provides that this listing shall be by its congressional numbers, in tracts not exceeding one-sixteenth of a section, or, if the land consists of lots, by the numbers of the lot and block, and plat designation.

### ***Notice Language***

A basic introduction paragraph providing notice that the State (or City or County) are seeking to acquire land or certain rights in land. This portion lists all exhibits that are attached to the Notice as well as specifying in which county the land is located.

NOTE: When a Joint Condemnation proceeding is being held, e.g., State of Iowa and Jones County, Iowa, then the notice language must specify that both government bodies are seeking certain rights in land. This reference is made by including the words "...are hereby notified that the State of Iowa and Jones County, Iowa, desire certain rights in land..."

### ***Legal Description***

Lead-in Clause for Acquisitions: The lead-in clause "sets the stage" by indicating the type of rights sought. The following are a list of the most frequently used lead-in clauses:

- When acquiring fee title: "The title in fee simple sought to be appropriated is in land described as follows:"
- When acquiring a permanent easement: "The easement for (highway purposes) (shaping and maintaining slopes) (securing borrow material) (etc.) sought to be appropriated is in land described as follows:"
- When acquiring access rights: "The access rights in fee simple title sought to be appropriated are described as follows:" (See ***Access Rights Clauses for Notice***)
- When acquiring temporary easement only: "The right of temporary easement sought to be appropriated, for the specific purpose of (constructing entrances) (securing borrow material) (shaping slopes) (constructing ditch inlet/outlet) (etc.) sought to be appropriated is in land described as follows:"
- When acquiring tenant or leasehold interests: "The (tenant)(leasehold) interest sought to be appropriated is in land described as follows:"
- When leasehold sign interests only are being condemned: "The leasehold right, if any, sought to be appropriated is in land described as follows."

NOTE: When a Joint Condemnation proceeding is being held, e.g., State of Iowa and Jones County, Iowa, then the lead-in clause must specify for which government body the acquisition is sought. This reference is made by including the words "for the use and benefit of the State of Iowa or Jones County, Iowa," after the "sought to be appropriated" portion of the lead-in clause.

General Statement of Acquisition: The general statement provides the general location of the land in quarter-quarter (40-acre tracts) or city lot increments. The following is the basic general statement of the acquisition:

"A parcel of land located in (the \_\_\_\_<sup>1</sup>/<sub>4</sub>\_\_\_\_ <sup>1</sup>/<sub>4</sub> of Sec.\_\_\_\_, T\_\_N, R\_\_(W)(E) of the 5<sup>th</sup> P.M.), or (Lot \_\_\_\_ Block\_\_\_\_Subdivision,), (in the City of \_\_\_\_\_,) \_\_\_\_\_ County, Iowa, as shown on Acquisition Plat Exhibit "A" attached hereto and by reference made a part hereof."

Specific Description of Acquisition: This is the actual legal description of the land to be acquired prepared by a Licensed Land Surveyor, with accompanying plat which graphically illustrates the acquisition. The description supplied with the plat is cross checked with the plat and modified to reflect uniform description formats used for Eminent Domain Notices.

### ***Special Provision Clauses***

Following the description of the acquisition of land, the following statement will be used as a lead-in to all special provision clauses: "In connection with this condemnation proceeding it is specifically provided as follows:"

Each clause following the lead-in clause shown above is numbered (See ***Special Provision Clauses for Notice***).

### ***Additional Information***

Header & Footer: This notation is located on every page to designate how the condemnation will be referenced. This includes the county, project number, parcel number, name and page number.

If husband and wife are both listed as fee owners on the title deed for the property, the name will be "John Doe, et ux" or "Jane Doe, et vir", whoever is listed first on the deed document is named first. If title holders are brothers and/or sisters, or there are contract purchasers or major leasehold interests involved, the name will be "John Doe, et al".

NOTE: The name listed in the Footer is also shown and entered on the "Acquired From" line on the plats attached to the notice.

### ***Proofreading and Final Form Notice***

After the ***draft Condemnation Notice*** has been prepared by the Agent, the file is reviewed by the Condemnation Unit Coordinator. Any amendments or edits to the documents are incorporated. The Agent and Condemnation Unit Coordinator then proofread the Notice against the parcel information and plats.

The proofreaders look for typographical errors, omission of words, misspelling of names, mislabeled ¼ ¼'s, incorrect labeling of land corners, right of way lines and centerlines, and exclusion of language necessary to acquire what is designed. Reviewing the file and proofreading the description against the plat are very important steps which can eliminate future corrective work. These quality assurance measures are necessary to ensure correctness, uniformity, and completeness of the ***final Condemnation Notice***.

After proofreading, the Agent will complete the ***final Condemnation Notice*** and begin preparing the Group Papers.

NOTE: The ***draft Condemnation Notice*** includes additional information about the appraised amount, compensation offered and reason for condemnation. This additional information is removed when preparing the ***final Condemnation Notice***.

## ***PREPARATION OF GROUP PAPERS***

The majority of the documents used by the Sheriff to conduct a condemnation hearing are provided by the Agent. These documents are collectively referred to as the *Group Papers*.

For specific instructions for preparation and distribution, see *Instructions for Group Papers*. Some of the documents prepared are sent to the Chief Judge (*Judge's Packet*), some are mailed to the Sheriff after the hearing has been scheduled (*Sheriff's Packet*), some are sent to the Office of the General Counsel assigned to the Highway Division of the Iowa Department of Transportation, and some are retained in the file for later use.

The *Group Papers* include:

- Property Sheet
- General Counsel Approval
- Judge Letter
- Certificate and Notice of Commencement of Condemnation Proceedings
- Application to the Chief Judge
- Selection and Appointment of Compensation Commissioners
- Supplementary Order
- Summons to Commissioners
- Oath of Commissioners
- Report of Compensation Commission
- Endorsement of Sheriff
- Acceptance of Service Sheet
- Sheriff's Certification as to Awards and Costs
- Commissioner's Costs Sheet
- Notice of Appraisal of Damages
- Affidavit of Final Offer
- Condemnation Commissioner's Statement
- Recording Data Sheet

## ***APPLICATION TO CHIEF JUDGE***

Condemnation proceedings in Iowa are instituted by a written **Application to the Chief Judge** with attached **Condemnation Notice** and plats. The information to be set forth in this document is outlined in IC Sec. 6B.3. The Agent shall forward it, along with the **Judge Letter**, **Selection and Appointment of Compensation Commissioners**, **Supplementary Order** and **Property Sheet** (collectively known as the *Judge's Packet* - see *Instructions for Group Papers*) to the Chief Judge of the Judicial District of the county in which the land sought to be condemned is located for review and approval, and for the judge's selection of commissioners. The Chief Judge, or the Judge's designee, by selecting the six members and six alternates of the Compensation Commission, in effect approves the stated purpose of the condemnation.

Once the fully executed **Application to the Chief Judge** and other documents are received back from the Judge, the Agent shall have it recorded in the County Recorder's Office. (See *E-Submission Process Manual*). The County Recorder shall file and index the application in the record of deeds and with the

office of the secretary of state. This recording constitutes constructive notice to the public that such a proceeding is pending and no interest can be acquired by a third party interceder(s) against the applicant. Once the recording is complete, the Agent shall submit the parcel to the Condemnation Unit Coordinator to schedule the hearing.

### ***HEARING SCHEDULING***

The Condemnation Unit Coordinator contacts the Sheriff's office in the county where the land is situated to schedule a hearing date. When setting a date, consideration must be given to the Original Notice Service and Time for Appraisal Requirements, as found in IC Sec. 6B.3, 6B.4, 6B.8, 6B.11, and in the Rules of Civil Procedure. A rule of thumb followed is:

- If publication is required, schedule a hearing at least sixty (60) days from the date the **Application to the Chief Judge** is recorded,
- If publication is not required, schedule a hearing at least forty-five (45) days from the date the **Application to the Chief Judge** is recorded,
- Other considerations when scheduling a hearing date are the proposed letting dates for the project and when houses and/or buildings which are owner occupied are being acquired.

CAVEAT: A hearing **MUST** be scheduled within one hundred twenty (120) days from the date the **Application to the Chief Judge** is recorded.

After the hearing date has been set, the Condemnation Unit Coordinator or designee ensures notification to the Condemnation Hearing Compliance Officer, District Engineer, the Resident Construction Engineer and other officials informing them of the date of the hearing. The Resident Construction Engineer is also requested to stake the proposed acquisition areas to facilitate viewing by the Compensation Commissioners.

Once the hearing has been scheduled, the parcel is then transmitted to the Agent who will prepare any necessary publication and additional service of condemnees before mailing required paperwork to the Sheriff.

### ***PUBLICATION AND SERVICE***

The Agent is responsible for securing service and notice of the upcoming condemnation hearing on all condemnees. The procedures for service and the type of service can vary depending on where the condemnee resides.

#### ***In-County***

For condemnees that reside within the county in which the land sought to be condemned is located, the Sheriff performing the hearing shall provide personal service.

### ***Out-of-County***

For condemnees that reside in Iowa, but *outside* of the county in which the land sought to be condemned is located, personal service is requested from the Sheriff of county in which they reside.

NOTE: All condemnees receiving personal service must be served at least thirty (30) days prior to the hearing.

### ***Out-of-State or Unknown***

For out-of-state or unknown condemnees, publication is required. The Agent shall arrange for the notice to be published in a newspaper of general circulation, closest to the location of the land to be acquired, once each week for three (3) consecutive weeks after the **Application to the Chief Judge** is recorded. The last of said publication must occur at least thirty (30) days prior to the hearing.

Refer to the Iowa Newspaper Directory (<http://inaneews.com/membership/find-an-iowa-newspaper/>) to determine which newspaper to contact.

A copy of the **Condemnation Notice** will also be sent via regular mail to the last known address of each out-of-state condemnee, and an **Affidavit of Mailing of Notice** is prepared, signed by the Condemnation Unit Coordinator, notarized and sent to the Sheriff in the *Sheriff's Packet*.

### ***Additional Publication***

For every condemnation hearing the Sheriff is also required to publish **Notice of Appraisal Hearing** which provides the list of commissioners and serves as public notice of a meeting/hearing (IC Sec. 6B.11 and 331.305). This form is not provided by the DOT. The notice must be published once in a newspaper of general circulation not less than four (4) days, nor more than twenty (20) days before the hearing date.

After out-of-county service and publication has been arranged (if required) the *Sheriff's Packet* is sent to the Sheriff performing the hearing along with an instructional letter (see ***Instructions for Group Papers***).

## ***APPOINTMENT OF COMPENSATION COMMISSION***

After receiving the *Sheriff's Packet* from the Agent, the Sheriff will notify the selected Commissioners of the pending hearing. If a commissioner has an interest in the property (e.g., part owner, family member, business partner, client, or associate) or, for some other reason, will not accept the appointment to the Commission, an alternate Commissioner is contacted. Either party may challenge one commissioner without stating cause not less than seven (7) days prior to hearing in writing and an alternate commissioner must then be selected not less than twenty four hours before the hearing.

Ultimately, six Commissioners, two from each of three categories depending on the type of property being acquired (agricultural or non-agricultural - see IC Sec. 6B.4), are seated on the Compensation Commission. When the **Application to the Chief Judge** was previously sent to the Chief Judge, the Agent requested the Chief Judge to select Alternate Commissioners in each of the required categories. This practice helps to avoid unnecessary loss of time and expense in canceling and rescheduling a

condemnation hearing when one of the six compensation commissioners is unable to serve. At times, even more alternates must be requested from the Chief Judge by sending an **Order Appointing Substitute Commissioner** form to the Judge to sign. Less frequently, new potential commissioners may need to be appointed by the County Board of Supervisors to seat a full six member Commission of qualified persons.

## ***CHANGES TO CONDEMNATION PROCEEDINGS***

### ***Amendments***

Occasionally, a revision to the **Condemnation Notice** may be required. The revision may require an **Amendment** to be filed in the Sheriff's office prior to the hearing to make it a part of the proceedings.

The **Amendment** is prepared by the Agent and signed by the Condemnation Unit Coordinator. The **Amendment** is then sent to the Sheriff for signature and returned to the Agent for recording. The fully executed **Amendment** will also be served on (if an additional interest is added) or mailed to all condemnees. Once recorded, a copy of the recorded **Amendment** is sent to the Sheriff with instructions to include it with the other condemnation papers in the *Final Recording Packet*.

NOTE: If the proposed revision involves increasing the acquisition, an **Amendment cannot** be completed. The scheduled hearing must be dismissed and the State must re-apply with the Chief Judge.

### ***Dismissals***

Many acquisitions are settled by agreement prior to the hearing. At other times, parcels are deleted. These situations may necessitate cancelling or dismissing the condemnation proceeding. A **Dismissal** is necessary only in situations where the **Application to the Chief Judge** has already been recorded.

The **Dismissal** is prepared by the Agent and signed by the Condemnation Unit Coordinator. The **Dismissal** is then sent to the Sheriff for signature and returned to the Agent for recording. Copies of the recorded **Dismissal** are also mailed to all condemnees.

If the parcel dismissed is the only remaining parcel in the group, a copy of the recorded **Dismissal** is sent to the County Sheriff, and nothing further is required. However, the Sheriff may submit a bill to the Agent for payment of the fees and costs associated with serving the legal notices, if service has already occurred.

If a hearing will still be held for a remaining parcel in the group, a copy of the recorded **Dismissal** is sent to the County Sheriff with instructions to include it with the other condemnation papers in the *Final Recording Packet*.

## ***PREPARATION OF HEARING PACKET***

The week before the hearing, the Agent provides the Condemnation Hearing Compliance Officer with additional paperwork needed for the hearing. These documents are referred to as the *Hearing Packet*. For specific instructions for preparation of the *Hearing Packet*, see ***Instructions for Group Papers***.

The *Hearing Packet* includes:

- **Hearing Cover Sheet**
- **Condemnation Notice**
- **Report of Compensation Commission with Endorsement of Sheriff**
- **Affidavit of Final Offer**
- **Notice of Appraisalment of Damages**
- *Service Packet*
- IRS documents

In addition, stamped and self-addressed envelopes for each condemnee are enclosed so that the Sheriff can mail copies of the **Notice of Appraisalment of Damages** to each condemnee following the hearing.

NOTE: If an **Amendment** is involved with a parcel, assemble the **Amendment** with amended plat(s), if any, with **Condemnation Notice** for the parcel in the Condemnation Hearing Compliance Officer's set of papers, above. If a plat on the **Condemnation Notice** is being substituted by the amendment, take the replaced plat out of the set.

### ***IRS Documents: W-9 Form & Allocation of Proceeds Statement***

A **W-9 Form** is requested from every fee owner, contract purchaser and tenant early in the acquisition process. In most cases, parties that refuse to sign an acquisition agreement will refuse to provide this form as well, so it is requested again after the hearing. If a completed **W-9 Form** is received by the Agent, it is entered into the 1099 database.

If there is more than one fee owner (except in the case of married couples), or if there is a contract purchaser, an **Allocation of Proceeds Statement** is sent to the fee owners and contract purchasers along with the **W-9 Form** for completion and entry into the 1099 database as well.

At the end of the year, all of this information is used to prepare 1099 forms that are sent to the Property Owners indicating gross proceeds received from the DOT. They use this information in filing their income tax returns.

## ***HEARING***

### ***Hearing Preparation and Forms***

Prior to the hearing, the Condemnation Hearing Compliance Officer reviews the acquisition history on each parcel (including the property's location, design of the acquisition, appraisals, and sales used as comparables) to prepare to present the State's case to the Compensation Commissioners at the hearing. The *Hearing Papers* are also reviewed to determine that all of the necessary forms are in proper order.

Upon arrival at the Sheriff's Office and prior to the arrival of the Compensation Commissioners, the Condemnation Hearing Compliance Officer should insure that the Sheriff's file is in order and that all

the condemnation forms are signed and that those to be signed that day are available in this file. These forms are:

- **Selection and Appointment of Compensation Commissioners**
- **Supplementary Order**
- **Summons to Commissioners** (signed by the Sheriff)
- **Oath of Commissioners** (to be signed by the Sheriff and by all Commissioners and notarized on the day of hearing)
- **Report of Compensation Commission** (to be signed by the Sheriff and all Commissioners on the day of the hearing)
- **Endorsement of Sheriff**
- **Sheriff's Certification as to Awards and Costs**
- **Affidavit of Final Offer** (to be signed by the Condemnation Hearing Compliance Officer and Sheriff and notarized on the day of the hearing)
- **Notice of Appraisal of Damages** (to be signed by the Sheriff, forwarded to the condemnor and mailed to all condemnees upon completion of the hearing)

The Condemnation Hearing Compliance Officer should also ensure that any **Amendment(s)** submitted in the interim between the application date and the hearing date is filed with the Sheriff. An owner, who has not been properly served, but appears at the hearing and requests that his or her property be viewed and an award be made, has made what constitutes a general appearance. By the owner's presence, the improper service issue becomes a non-issue and the owner's requests should be considered. The Condemnation Hearing Compliance Officer should, if they provide sufficient evidence of interest, serve them with a *Service Packet* (which the Sheriff should have) have them sign the **Acceptance of Service Sheet** attached thereto, and then document the appearance in the **Hearing Report**. As well, the name of the person(s) making the general appearance should be entered on the **Report of Compensation Commission** and the **Notice of Appraisal of Damages** forms with the accompanying award shown for the person(s). The name(s) shall also appear on the reverse of the **Report of Compensation Commission** and the **Endorsement of Sheriff** to indicate that the name(s) were not originally on or are different than on the **Application to the Chief Judge**.

### ***Swearing in of Compensation Commissioners***

The Condemnation Hearing Compliance Officer should greet each of the Compensation Commissioners as they arrive handing each a copy of the **Condemnation Notice**. The **Instructions from the Chief Justice** of the Iowa Supreme Court should be read at the scheduled time for the hearing to commence. The Condemnation Hearing Compliance Officer should make sure that there are enough copies of the Instructions, one to give to each of the Commissioners to retain.

The **Instructions from the Chief Justice** are a general overview of considerations for the Commissioners. If any of the acquisitions involve purchasing buildings, the Condemnation Hearing Compliance Officer should make special reference to Instruction No. 2 (pertaining to removing buildings onto abutting land of the property owner) and inform the Commissioners that the State's policy on buildings is to acquire the building(s) unless otherwise stated in the Notice. If personal property is involved, the Condemnation Hearing Compliance Officer should instruct the Commissioners not to make allowance for moving personal property as indicated in Instruction No. 3. Actual costs of moving personal property are paid apart from any acquisition of real estate through Relocation Assistance and that additional consideration would involve duplicate payment.

After the Instructions have been read and any questions answered, the Sheriff will read the **Oath of Commissioners** to the Compensation Commissioners. Each Commissioner must take the oath, sign the oath, and the Sheriff must acknowledge those acts in order to preserve and validate the condemnation proceeding.

### ***Viewing of the Properties***

After the oath has been read and signed, the Condemnation Hearing Compliance Officer, the Sheriff, the condemnees and the Compensation Commission will proceed to view the property(s) involved. It is the Sheriff's responsibility to transport the Commissioners to and from the viewings.

### ***Conduct of Hearings***

After viewing the property the Compensation Commission will meet at a location specified by the Sheriff. The property owner(s) (condemnees) and Condemnation Hearing Compliance Officer will present evidence and arguments to support their claim for the amount of damages that the owner(s) will sustain. Property owners are often times represented by legal counsel at this meeting with the Compensation Commission.

The Condemnation Hearing Compliance Officer should present the State's position using a previously prepared outline of the acquisition. References should be made to appraisals obtained by the State. The use of graphic illustrations on blackboards, maps, aerial photos and official highway plans can be very helpful in describing aspects of the acquisition.

When a fence or building is located on property condemned for highway purposes, the condemnor is responsible for the actual costs incurred by the property owner in replacing or moving the fence, or moving the building or fence onto property owned by the landowner and abutting the condemned land. These costs cannot constitute an additional element of damages which would be a duplication of payment. Therefore, the Condemnation Hearing Compliance Officer should indicate that the relocation costs should not be considered when determining the award of damages, if covered by a Relocation Assistance offer.

The Condemnation Hearing Compliance Officer should submit the State's final offer after all appraisals and valuations supporting the State's position have been explained. The offer should be made using the appraisal or appraisals as a base and should include compensation for those factors observed that have not been previously considered in the appraisal or by the reviewing appraiser.

The Condemnation Hearing Compliance Officer should listen to and take notes on evidence of valuation or other relevant data as presented by owners, their witnesses, and/or their attorneys. The Condemnation Hearing Compliance Officer should be prepared to ask questions and point out attempts to claim speculative or non-compensable items of damage. The Condemnation Hearing Compliance Officer should be prepared to answer any questions, particularly those questions from owners and/or their attorneys intended to weaken or discredit the State's position.

The condemnor or condemnee(s) should then request the Compensation Commission divide the damages into parts to indicate the value of any dwelling, the land and improvements, and any additional

damages. This would also be the proper time for either the condemnor or condemnees to request the Compensation Commission to apportion the damages between the landlord and the tenant.

At the conclusion of the presentations the Condemnation Hearing Compliance Officer should present to the Chairman of the Compensation Commission the **Report of Compensation Commission** (original and two copies) and explain how they are to be completed.

When the Compensation Commission has begun its deliberation subject to Chapter 21 of the Iowa Code, the Condemnation Hearing Compliance Officer should file with the Sheriff the **Affidavit of Final Offer** and retain a copy for the State's files. The Compensation Commission, upon completing its determination of the award of damages shall consider awarding attorney fees, costs and the cost of one appraisal to the condemnee(s), if this award exceeds 110 percent of the final offer made to the landowner by the condemnor.

The Compensation Commission will file its award with the Sheriff. The Condemnation Hearing Compliance Officer shall obtain two copies of the **Report of Compensation Commission** making sure each form is properly signed. The original **Report of Compensation Commission** remains with the Sheriff to be recorded with the other condemnation papers in the *Final Recording Packet*.

The **Notice of Appraisal of Damages** and **Endorsement of Sheriff** will be completed by the Sheriff and mailed along with a copy of the **Report of Compensation Commission** to every condemnee. It is also given to the condemnor via the Condemnation Hearing Compliance Officer.

## ***POST-HEARING PROCEDURES***

### ***Hearing Report & Recommendation***

After the hearing and upon returning to the office, the Condemnation Hearing Compliance Officer will prepare a **Hearing Report** with recommended disposition of the award and the **Right of Way Director's Recommendation**. These forms are internal documents having two primary purposes:

- **Reporting:** The first purpose - to report on the evidence and give possible reasons for the award - should document the facts thoroughly. The report should include the evidence presented by all participants, as well as the particulars of the acquisition itself and the property from which the acquisition came. As well, the Condemnation Hearing Compliance Officer should attempt to determine the reasons the Commissioners decided what the award would be. Information of this sort will be invaluable in the event of an appeal. After obtaining the Right of Way Director's written approval of the recommendation, the Condemnation Hearing Compliance Officer will then discuss and obtain written concurrence of the recommendation from the General Counsel. The original **Right of Way Director's Recommendation** is then delivered to the Condemnation Unit Coordinator after receiving recommendations from both offices.
- **Accept or Reject Award Recommendation:** The Condemnation Hearing Compliance Officer recommends the acceptance or rejection of the condemnation award on the **Right of Way Director's Recommendation** and justifies this recommendation in the **Condemnation Hearing Report**. The Condemnation Hearing Compliance Officer will then discuss the results with the Chief Acquisition Agent and the Right of Way Director and obtain the Director's signature on

both forms. At this time, if an Appeal is indicated, the Condemnation Hearing Compliance Officer will complete the bottom portion of the Recommendation for each parcel to be appealed which suggests to the General Counsel, a partial disbursement of the Compensation Commissioners dollar award to save interest dollars. This suggested partial dollar disbursement will most often reflect the State's appraised value of the property acquired or the condemnation final offer. The General Counsel has the responsibility to determine whether there will be a disbursement and, if so, how much will be disbursed.

Along with the **Hearing Report** and **Right of Way Director's Recommendation**, the Condemnation Hearing Compliance Officer shall also submit the **Report of Compensation Commission, Notice of Appraisal of Damages, Affidavit of Final Offer** and any additional *Service Packets* for processing by the Condemnation Unit.

### ***Payment of Award***

Upon receipt of the fully executed **Hearing Report, Right of Way Director's Recommendation, Report of Compensation Commission, Notice of Appraisal of Damages and Affidavit of Final Offer**, the Condemnation Unit Coordinator initiates preparation of the voucher to pay the award of damages forwarding these documents to the Payment and Audit Unit for initial auditing. If the acquisition is for a project using Federal funds in Right of Way, the Payment and Audit Unit submits these documents to the Federal aid auditors for approval. The Payment and Audit Agent, or designee, audits the claim for payment of award of damages and prepares the voucher.

On the voucher the Payment and Audit Agent will instruct the Office of Finance to "Mail Warrant to ROW-Condemnation" and submit it to the Office of Finance for issuance. When the warrant is issued, a copy is supplied to the Condemnation Unit Coordinator for review. The warrant is then forwarded to the Sheriff along with all original **Proof of Publication** (if any), out-of-county original **Returns of Service** (if any), **Recording Data Sheet, Recorder's Cover Sheet, Notification Postcard** and instructions for recording. A copy of this letter, along with copies of the Acquisition Plat (s), is also sent the County Treasurer.

The County Treasurer will be listed as a co-payee on the warrant for every parcel involving permanent acquisition of real estate, as Section 427.2 of the Code requires the acquiring authority to assist in the collection of real estate taxes and special assessments. Once land is acquired as right of way for a public road it is no longer taxable real property. The County Treasurer shall prorate the real estate taxes based on the hearing date and will collect the taxes and assessments due and owing when the warrant is presented for endorsement (see ***Right of Way Tax Brochure***).

The Sheriff indicates on the **Notification Postcard** whether or not the condemnee or condemnor, as the case may be, has filed an appeal, or whether the condemnee has accepted the award, or that the time for filing an appeal has run out (30 days) and the award has not been picked up by the condemnee. This **Notification Postcard** is mailed back to the Agent and retained in the parcel file.

### ***Possession***

Designees of the Department may enter the condemned property and proceed with the project after the award of damages is on deposit with the Sheriff.

An exception to this right of possession guideline is in the case of the acquisition of an owner-occupied dwelling, out buildings if the dwelling is acquired, orchard or garden (See IC Sec. 6B.26). Assuming the availability of replacement housing, possession of an owner-occupied house may be taken 180 days from the date of the deposit of the award as specified in a 30-day notice to the occupant to vacate. Where the condemnee accepts the award as full payment and fails to file an appeal, a 30-day notice will be sent by the Relocation Assistance Section the day that the time for appeal has expired.

Another exception is when a building(s) or fence is reserved to the condemnees until a certain date. The right of possession is then contingent upon the reservation date as stated in the **Condemnation Notice**.

### ***Title to Property Condemned***

Title to the property passes to the condemnor when the award of damages are finally determined and paid. If a condemnation is not appealed, title will pass when the condemnees are paid. For all practical purposes, this occurs when the warrant is deposited with the Sheriff and the thirty (30) day appeal period has passed. If a condemnation is appealed, title will pass when the final verdict is handed down and the warrant is deposited with the Clerk of Court.

### ***Payment of Fees and Costs and Final Recording***

After the hearing, the Sheriff submits the completed **Sheriff's Certification as to Awards and Costs** to the Agent for payment of the fees and costs associated with the hearing. The claims may include: Sheriff's costs for serving the legal notices, Commissioner's costs (basic fee, transportation and meals), Sheriff's attendant fees at the hearing, etc.

Thirty (30) days after the date of mailing of the **Notice of Appraisalment of Damages**, the Sheriff shall file with the County Recorder of the county in which the condemned land is situated the *Final Recording Packet*, which includes the following papers:

- **Recorder's Cover Sheet**
- "Certified True Copy" of the **Application to the Chief Judge**
- **Selection and Appointment of Compensation Commissioners**
- **Supplementary Order** or substitute compensation commissioners (if any), including all orders from the Chief Judge appointing them and the summons served on them
- The signed copy of the **Summons to Commissioners** for each original, alternate or substitute commissioner
- **Oath of Commissioners**, which must have an original signature from each commissioner
- The signed copy of the **Sheriff's Certification as to Awards and Costs**
- **Condemnation Commissioner's Statement** (one signed statement from each commissioner)
- All **Condemnation Notices**, and **Returns of Service**
- **Proof of Publication** (if there have been any publications) as well as all Affidavits in connection therewith
- **Affidavit of Final Offer**
- **Report of Compensation Commission** with the **Endorsement of Sheriff**, signed by each commissioner and certified by the Sheriff
- **Notice of Appraisalment of Damages** endorsed by the Sheriff

- All other papers filed in connection with said proceedings and a written statement by the Sheriff of all monies received in payment of damages, from whom received, and to whom paid, and the amount paid to each claimant

The Sheriff will also provide the Recorder with the **Recording Data Sheet** to be completed and submitted to the Agent after recording for payment. After payment has been received by the Recorder, the *Final Recording Packet* will be returned to the Agent. The Agent will review the *Final Recording Packet* to ensure that all documents required were included and properly recorded.

If an appeal is taken from the award of the Compensation Commission, the Sheriff will at once file with the Clerk of the District Court a certified copy of as much of the assessment as applies to the part appealed from, in addition to the recording above.

As a standard practice, the Iowa DOT, in the event of an appeal, instructs the Sheriff to immediately file the *original* condemnation proceedings as the *Final Recording Packet* with the County Recorder and, at the same time, file a *certified* copy of these papers with the Clerk of the District Court. A certified copy usually means making a machine copy of the papers with an attached certificate form stating that these copies are true and identical copies of the originals.

## ***APPEAL***

### ***How Appealed***

The appraisal of damages by the Compensation Commission is final unless the condemnee or condemnor appeals the award to District Court within the prescribed time limit (See IC Sec. 6B.17 and 6B.18). After the **Notice of Appraisal of Damages** is delivered to the Sheriff, the Sheriff gives written Notice, by ordinary mail, to the condemnee(s) of the results. Either party has thirty (30) days from the date of this mailing to appeal the award to District Court.

If the award is appealed, the appellant will serve written notice on the other party, his/her attorney or agent, and on all other interested parties as well as the Sheriff. The notice of appeal shall be served in the same manner as an Original Notice (see Rules of Civil Procedure Rule 56.1). If the condemnation involves the Department of Transportation, the notice of appeal is served upon the Attorney General, or the General Counsel to the Department of Transportation, or upon the Chief Highway Engineer of the Department of Transportation.

In any condemnation proceedings instituted by the Department of Transportation, when the notice of appeal is delivered to the Sheriff with the intent that it be served upon the Attorney General, the Department of Transportation General Counsel, or the Department of Transportation Chief Highway Engineer, delivery of the notice of appeal shall be deemed a commencement of the appeal proceedings (IC Sec. 6B.19).

Appeals are not handled by the Condemnation Unit of the Right of Way Office, but rather by the General Counsel. When the notice of the appeal is received, the General Counsel will request a copy of all appraisal, title, and other condemnation information from the Condemnation Unit Coordinator to prepare its case.

The General Counsel will notify the County Treasurer if an appeal is filed. This will give the taxing authority an opportunity to file a claim for the payment of taxes and special assessments from the proceeds of the award of the Compensation Commission. The Treasurer will not be a payee on warrants paying final condemnation awards in cases appealed to the District Court unless an appearance and a claim for payment is filed. A sample Application for the Payment of Taxes and Special Assessment and a sample Order of the District Court are available from the Right of Way Office for Treasurer's use.

### ***Possession in the Case of Appeal***

An appeal of the award of condemnation for highway purposes does not affect the right of the State to proceed with the construction of the road except in the case where a landowner's residence, dwelling house, outbuildings, orchard or garden is located on the right of way condemned. In these cases, entry cannot be made upon these areas until either the damages have been finally determined and paid OR one hundred and eighty (180) days after the Compensation Commission has determined and filed its award. In the latter situation, the appraisal of damages must be paid to the property owner before the right of possession is obtained.

After the damages have been finally determined and paid (30 days), or after the appeal case has been disposed of or no later than 150 days (or 180 less 30 days) from the date the Compensation Commission has filed its award, the Relocation Assistance Section of the Office of Right of Way will send a 30-day notice to vacate to the owner occupants of the residence or dwelling. Designees of the Department may take possession of or enter on land where the landowner's residence, dwelling, outbuildings, orchard or garden is located only after notifying the General Counsel to ensure that the possession or entry will be in a manner that complies with the terms of any stipulated agreement, order of the court, or 30-day notice.

Any time after an appeal is taken, if the condemnor declines to take the property and pay the damages awarded by the Compensation Commission, the condemnor is bound to pay any costs or damages actually suffered by the landowner plus reasonable fees as taxed by the court. The Code provides for removal of the condemnor from the condemned land for failure to pay the award determined. (See IC 6B.32 and 6B.34).

### ***Question Determined***

The only question to be determined in a condemnation appeal is the amount of damages to be awarded to the property owner. A challenge to the validity of the condemnation or the like is not properly a part of a condemnation appeal.

The party appealing the award of the Compensation Commission (either the condemnee or condemnor) shall be the plaintiff in the action. All other interested parties to the action will be defendants.

### ***Change of Damages by Trial***

If on trial, the amount of damages awarded by the Compensation Commission is decreased, only the reduced amount will be paid to the landowner. If the previous condemnation award had been disbursed to the condemnee(s), the difference between the amount received from the Compensation Commission award by the landowner and the trial verdict shall be repaid to the condemnor with interest, the person who received the excess payment shall have a judgment entered against them. If on trial, the verdict is greater than the damages awarded by the Compensation Commission, the condemnor will pay the

condemnee the additional amount with interest. The condemnor is to deposit the additional money with the Sheriff, but in actual practice it is deposited with the Clerk of Court and the receipt is documented in the Clerk's records.

### ***Appeal Final***

Upon completion of the appeal the Clerk of Court will provide the County Recorder with the certified copies of the condemnation proceeding papers (which do not need to be filed if they duplicate the original papers already recorded) as well as a copy of the record entry of damages, and a written statement of all money received in damages and paid to each claimant.

Payment of stipulated settlement, awards of the court, court costs and recording fees are vouchered by the General Counsel. The vouchers are sent to the Payment and Audit Unit of the Right of Way Office, audited for cost, and sent for warrant issuance to the Office of Finance. Warrants are returned to the General Counsel and forwarded to the Clerk of Court to be paid to the claimant(s).

The General Counsel furnishes Notice of Final Disposition directly to both the Resident Construction Engineer and the Office of Right of Way. These Notices may take the form of a Stipulated Settlement, a dismissal or other forms of Decree indicating the final disposition of the appeal case.

### ***CLOSING CONDEMNATION FILE***

Sixty (60) days after the day of the condemnation hearing where there is no appeal or immediately after the settling of an appeal where an appeal has been filed, the Agent will review the file to ensure that all steps in the condemnation process have been completed and retain all necessary documents in the parcel file. A copy of the **Condemnation Notice** and plat(s) with recording information is transmitted to the file room to be stored in the Right of Way Contracts file for the project. The original acquisition plats are placed in the Plat Book. Specific information concerning an appeal may be found in the Office of the General Counsel.

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**CONDEMNATION ELECTRONIC PARCEL CHECKLIST (6/2016)**

ProjectWise Directory No: \_\_\_\_\_ Hearing Date: \_\_\_\_\_

Project No: \_\_\_\_\_ Parcel No.: \_\_\_\_\_ Group: \_\_\_\_\_

In PW		Comments
Y	NA	
		<b>Design Folder:</b>
		Original Title Report Dated: _____
		Title Report Recertification (Email to Nikki) Ordered: _____ Dated: _____
		Design Revision Request _____
		Plot Plan/Summary Sheet _____
		Acquisition Plats _____
		Excess Land Plot Plan & Plat _____
		<b>Appraisal Folder:</b>
		Appraisal _____
		Review Appraisal Dated _____ By: _____ \$ _____
		Appraisal Waiver Determination _____
		<b>Acquisition Folder:</b>
		Appraisal Waiver Dated _____ By: _____ \$ _____
		Appraisal Mailing Letter _____
		Certification of Negotiator _____
		Offer to Purchase-Owner Dated _____ By: _____ \$ _____
		Revised Offer to Purchase Dated _____ By: _____ \$ _____
		Offer to Purchase-Tenant Dated _____ By: _____ \$ _____
		Contact Notes _____
		Interoffice Breakdown _____
		DRAFT Purchase Agreement-Owner _____
		DRAFT Purchase Agreement-Tenant _____
		<b>Condemnation:</b>
		Information for Condemnation Sheet (Katie scans) _____
		DRAFT Notice _____
		Graphic Exhibit "A" (total acquisition/access rights only) _____
		Letter to Chief Judge PSS Entry Sent: _____
		Application and Notice PSS Entry Date Recorded: _____
		Condemnation Certificate (one per project-Katie scans) Sent: _____
		Letter to Sheriff with Sheriff's Paperwork Sent: _____
		Letter to Sheriff-Service Request (Other County) Sent: _____
		Newspaper Letter - Publication Request Sent: _____
		Publication Dates: 1 _____ 2 _____ 3 _____
		Service Packet _____
		Commencement of Condemnation Proceedings _____
		Amendment To Sheriff: _____ Date Recorded: _____
		Dismissal PSS Entry To Sheriff: _____ Date Recorded: _____
		Hearing Papers Cover Sheet _____
		Property Sheet _____
		Hearing Report & Director's Recommendation (Katie scans) _____
		Warrant Letter Dated: _____ Warrant No. _____
		Treasurer Letter Sent: _____
		W-9/Allocation of Proceeds Letter Sent: _____
		Recorded Final Condemnation Packet PSS Entry Received: _____
		Sheriff's Postcard Received: _____
		<b>IF APPEALED: (Send File to Katie)</b>
		Settlement Recommendation Received: _____
		Filed Stipulation of Settlement Received: _____

Hearing Papers to Hearing Officer Sent: \_\_\_\_\_

W-9 Form(s)/Allocation of Proceeds Received: \_\_\_\_\_ To Katie: \_\_\_\_\_

Other Notes/Requirements: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Closed File Audit & Transmittal** Date: \_\_\_\_\_

Audit Comments: \_\_\_\_\_  
 \_\_\_\_\_

Acquisition Agent: \_\_\_\_\_ Condemnation Agent: \_\_\_\_\_

**ACCESS RIGHTS CLAUSES FOR NOTICE**

**NEW ACCESS RIGHTS ACQUIRED - NO ACCESS:**

The access rights in fee simple title sought to be appropriated, (for the use and benefit of the State of Iowa,) are described as follows:

All rights of direct access between Primary Road No. IA/U.S. xx and condemnee's' remaining property abutting thereon in the xx ¼ of the xx ¼ of Section xx, Township xx North, Range xx West of the 5<sup>th</sup> P.M., xx County, Iowa, from Sta. xx+xx± (Property Line) to Sta. xx+xx± (Property Line), on the xx side.

**NEW ACCESS RIGHTS ACQUIRED - WITH ACCESS ALLOWED:**

The access rights in fee simple title sought to be appropriated, (for the use and benefit of the State of Iowa,) are described as follows:

All rights of direct access between Primary Road No. IA/U.S. xx and condemnee's' remaining property abutting thereon in the xx ¼ of the xx ¼ of Section xx, Township xx North, Range xx West of the 5<sup>th</sup> P.M., xx County, Iowa, from Sta. xx+xx± (Property Line) to Sta. xx+xx± (Property Line), on the xx side. Access will be permitted at Sta. xx+xx on the xx side of Primary Road No. IA/U.S. xx.

**REVISION: PREVIOUSLY RESERVED ENTRANCE - NOW CLOSED/ELIMINATED:**

The access rights in fee simple title sought to be appropriated, (for the use and benefit of the State of Iowa,) are described as follows:

The access point located at Sta. xx+xx, now identified as Sta. xx+xx, on the xx side of Primary Road No. IA/U.S. xx, reserved in a certain Warranty Deed/Condemnation Proceeding recorded in the xx County Recorder's Office, on xx, in Book xx, Page xx, is hereby condemned.

**REVISION: PREVIOUSLY RESERVED ENTRANCE BEING MOVED:**

The access rights in fee simple title sought to be appropriated, (for the use and benefit of the State of Iowa,) are described as follows:

The access point located at Sta. xx+xx, now identified as Sta. xx+xx, on the xx side of Primary Road No. IA/U.S. xx, reserved in a certain Warranty Deed/Condemnation Proceeding recorded in the xx County Recorder's Office, on xx, in Book xx, Page xx, is hereby condemned. Access will be permitted at Sta. xx+xx on the xx side of Primary Road No. IA/U.S. xx.

\*Specific Provisions - numbered paragraphs at end of Notice:

**\*NO PRIOR ACCESS RESERVATIONS WITH ACCESS NOW ALLOWED:**

The right of controlled access between Primary Road No. IA/U.S. xx and condemnee's' property abutting thereon in the xx ¼ of the xx ¼ of Section xx, Township xx North, Range xx West of the 5<sup>th</sup> P.M., xx County, Iowa, acquired in a certain Warranty Deed/Condemnation Proceeding recorded in the xx County Recorder's Office, on xx, in Book xx, Page xx, is hereby amended to permit access at Sta. xx+xx on the xx side of Primary Road No. IA/U.S. xx.

**\*NO ACCESS ALLOWED - NEW HIGHWAY - TRAILBLAZING:**

No rights of direct access shall be permitted between Interstate Route No./Relocated Primary Road No. IA/U.S. xx, including its ramps and approaches thereto, and condemnee's' remaining property abutting thereon.

**PREVIOUSLY RESERVED ENTRANCE HAS A REVISED STATION NUMBER:**

Do not include in Notice

**Special Provision Clauses for Notice**

***Improvement Clause***

All improvements on the land acquired, unless they are being relocated, must specifically be acquired. Permitted advertising devices are usually dealt with as a separate parcel and may be either acquired or relocated.

The standard improvement clause reads as follows:

"Any and all improvements, (including fences or agricultural crops,) if any, located wholly within the land sought (in fee simple title) (and/or by easement for highway purposes), are condemned in their entirety."

Where personal property or special-purchase fixtures and equipment are to be acquired, the following shall be added to the improvement clause:

"Any and all improvements, (including fences or agricultural crops,) if any, including the following fixtures and equipment, located wholly within the land sought (in fee simple title) (and/or by easement for highway purposes), are condemned in their entirety:"  
include listing of items

If an owner elects to move a building(s) or fence instead of selling it, the following shall be added to the improvement clause:

"Any and all improvements, (including fences or agricultural crops,) if any, located wholly within the land sought (in fee simple title) (and/or by easement for highway purposes), are condemned in their entirety, except as noted in Item 2 below."

In addition, a reservation clause will be added to the Notice as follows:

"It is not the intent of the condemner to acquire (the on-premise advertising device/billboard/sign located at Sta. xx+xx on the xx side of Interstate Route No. /Primary Road No. IA/U.S. xx) (or building identification) (or fencing identification)."

"The (building identification or fence) described in No. (number of improvement clause) above, is reserved to the condemnees until (fill in a date). If said (building identification or fence) is not removed by said date, it shall become the property of the State of Iowa to dispose of as is deemed fitting."

This reservation clause may be used in other instances where buildings are reserved back to the owners for whatever reason.

***Crop Reservation Clause***

This clause is used when it is anticipated that possession will occur before crops are harvested, but actual possession is not required on the date provided by statute.

"Any 20\_\_\_\_ crops growing on the land sought to be appropriated are reserved to the condemnees until \_\_\_\_\_. Any crops not removed by said date shall become the property of the State of Iowa to dispose of as is deemed fitting."

***Temporary Easement Acquisitions***

Where there is a temporary easement acquisition(s) in addition to permanent acquisitions, the temporary easement(s) shall be described as a special provision clause as follows:

"The State of Iowa shall have the right of temporary easement, for the specific purpose of (constructing entrances) (shaping slopes) (constructing ditch inlet/outlet) (removing grain bin) (constructing detour road) (securing borrow material) (constructing and using a haul road) (stockpiling topsoil) (etc.), in land described as follows and as shown on Graphic Exhibit "B" attached hereto and by reference made a part hereof."

(Fill in legal description for temporary easement here.)

When a temporary easement for securing borrow material is acquired, the following statement will be made after the description:

"The limits of the above described borrow area are in accord with the plans for the project."

When a temporary easement for detour road or haul road is acquired, the following clause will be made after the description:

"Condemnor agrees that upon completion of its use, the (detour road) (haul road) will be removed and the temporary easement area shall be returned, insofar as possible by machine methods, to its original condition."

NOTE: An acreage figure will be shown on the Notice and on the plat with temporary easement acquisitions for borrow areas and for haul road areas. Acreage figures are not used on other types of temporary easement acquisitions.

***Entrance Clauses***

When the State will construct or close entrances (in addition to closing previously reserved access locations) use the following:

"The State of Iowa will construct (an) entrance(s) at Sta. xx+xx on the xx side of Interstate Route No. /Primary Road No. IA/U.S. xx (and at Sta. xx+xx on the xx side of local road xx). The existing entrance(s) at Sta. xx+xx on the xx side of Interstate Route No. /Primary Road No. IA/U.S. xx (and at Sta. xx+xx on the xx side of local road xx) will be closed and the entrance(s) eliminated."

***Special Borrow Statements***

When condemning a temporary easement for securing borrow material, one of the following clauses will be added to the Notice depending on whether topsoil will be replaced or not replaced:

Used when topsoil is replaced for borrow area of 10 or more acres:

"Eight inches of topsoil shall be removed, stockpiled and replaced on the land to be acquired by said temporary easement to secure borrow material." (Additional temporary easement area for stockpile would not be needed.)

Used when topsoil is replaced for borrow area of less than 10 acres:

"Eight inches of topsoil shall be removed and replaced on the land to be acquired by said temporary easement to secure borrow material."

Additional temporary easement area for stockpile is needed. Used when no topsoil replaced but erosion control methods are needed:

"Before the termination of the temporary easement, for the specific purpose of securing borrow material, the land to be acquired by said temporary easement shall be fertilized, mulched and reseeded to provide vegetative cover. It is understood that topsoil will not be replaced."

***Tile Clauses***

Used when there is no borrow involved in the acquisition:

"Any farm field drainage tile, or outlets, which are located within the land being acquired under this proceeding, and are damaged or destroyed by highway construction, shall be relocated, replaced or restored by the condemnor and at no expense to the condemnees, and the State of Iowa shall have a right of temporary easement as necessary over condemnees' remaining property for the specific purpose of effecting such relocation, replacement or restoration."

Used when there is a borrow by temporary easement involved in acquisition:

"Any farm field drainage tile, or outlets, which are located within the land being acquired under this proceeding, except the area sought for securing borrow material, and are damaged or destroyed by highway construction, shall be relocated, replaced or restored by the condemnor and at no expense to the condemnees, and the State of Iowa shall have a right of temporary easement as necessary over condemnees' remaining property for the specific purpose of effecting such relocation, replacement or restoration. The condemnor will leave the surface of the borrow area sloped to drain and will not repair or replace any tile lines within the borrow area."

NOTE: There is no tile clause exception for borrow when the borrow is acquired by fee simple title. The standard tile clause used when there is no borrow is appropriate here.

***Substitution Clause***

The following clause is used to terminate the temporary easement rights sought to be acquired, used only when we have a temporary easement or use the tile clause above.

"The area(s) sought to be appropriated by temporary easement, for the specific purpose of (constructing entrance), (shaping slope), (ditching outlet), (relocating, replacing or restoring tile) are reserved to the condemnees until the actual date said area(s) (is) (are) required for construction of this highway improvement. Also, said temporary easement right(s) shall terminate immediately upon completion of the operations for which said right(s) (is) (are) sought and in no event later than the completion of this highway improvement."

***Ponding Area***

Ponding areas will be determined and indicated on the Right of Way plans by Right of Way Design in a precise manner to ensure the area is the minimal one required. The clause specifying the right to pond water will state as follows or it may be modified, to the situation:

"The right to pond water to an elevation of \_\_\_\_\_ feet above mean sea level (within banks of the present channel,) sought to appropriated is in land described as follows and as shown on Graphic Exhibit "\_\_\_".

***Renegotiation Clause***

The following clause is included in ALL Notices:

"Condemner hereby gives notice of condemnees' five-year right to renegotiate construction or maintenance damages not apparent at the time of the condemnation as required by the Code of Iowa, Section 6B.52."

## INSTRUCTIONS FOR GROUP PAPERS

Location: W drive: ROW\Fiscalandtitle\condemnations\GroupPapers\lform\_grouppapers\_datasource

Fill out Excel spreadsheet (one spreadsheet per Group “Letter”)

Save as: countydatasourcepcl#

### ***Mail Merge Wizard***

- Open lform\_grouppapers\_maindoc-your name-new
- Click on the Mailings tab
- Click on start mail merge and select step by step mail merge wizard
- Verify that “use an existing list” is selected and click on Browse...
- Browse to the spreadsheet where you saved the information (countydatasourcepcl#)
- Verify that sheet1\$ is highlighted and that there is a check mark in the box next to first row of data contains column headers, then click OK, OK
- Click on next: write your letter
- Click on next: preview your letters
- Verify that the correct information is in the letter
- Click on next: complete the merge
- Do a Save as and save file with the appropriate name and location (gpcountypcl#)

Click on the “x” in the corner of the mail merge portion of the window to close the Mail Merge Wizard. These are the *Group Papers*.

### ***Additional Information Added to Group Papers***

- Property Sheet - get information from Draft Condemnation Notice to complete
- General Counsel Approval - if group is “A” print and send to Legal
- Judge Letter - nothing additional to add
- Certificate and Notice of Commencement of Condemnation Proceedings - fill out Sec-Twp-Rng for each parcel
- Application to the Chief Judge (2 pages) - nothing additional to add
- Selection and Appointment of Compensation Commissioners - nothing additional to add
- Supplementary Order - nothing additional to add
- Summons to Commissioners - nothing additional to add
- Oath of Commissioners - nothing additional to add
- Report of Compensation Commission (fill out one for each parcel)
  - On top line of the left box of the grid add: Parcel #
  - Then skip one line and enter the following:
    - In left box of grid fill out condemnees in following order: fee owners, spouses, mortgage holders/lien holders, then add a couple of spaces then tenants \*Note: Do not need to list City, if Auditor is named change it to Treasurer
- Endorsement of Sheriff - (one for each parcel) nothing additional to add
- Acceptance of Service Sheet - nothing additional to add
- Sheriff’s Certification as to Awards and Costs - nothing additional to add
- Commissioner’s Costs - nothing additional to add
- Notice of Appraisal of Damages - fill out same names and in the same order as Report of Compensation Commission (one for each parcel)
- Affidavit of Final Offer - fill out same names and in the same order as Report of Compensation Commission (one for each parcel)

Print all pages

***Judge's Packet***

Prepare packet in the following order and send to the appropriate Chief Judge (some Judges are accepting packets via email):

If Emailing Judge's Packet

- Signed Judge Letter
- Application to the Chief Judge with attached Condemnation Notice and plats
- Property Sheet
- Selection and Appointment of Compensation Commissioners (include as a word document in the e-mail)
- Supplementary Order (include as a word document in the e-mail)

If Mailing Judge's Packet

- Same as above except make a copy of everything (except Judge Letter and Property Sheet) and add a return envelope (with your initials on the envelope)

After the *Judge's Packet* is returned, sign last line on the 2<sup>nd</sup> page of the Application to the Chief Judge and record it along with the Condemnation Notice and plats

***Sheriff's Packet***

After hearing has been scheduled, prepare packet in the following order and send to the Sheriff conducting hearing (NOTE: If you need to publish, the publishing needs to be arranged first):

- Signed Sheriff Letter\*
- Copy of recorded Application to the Chief Judge stamped "certified true copy"
- Original Selection and Appointment of Compensation Commissioners and Supplementary Order (completed by the Judge)
  - Provide one copy to each Condemnation Hearing Compliance Officer immediately
- Summons to Commissioners (open saved group papers to fill this out)
  - Fill out the name of the Chairperson, the date of the hearing and the time zone
  - Copy and save six
  - Leave the name of the commissioner blank on the first copy
  - Fill out the remaining six copies each with a name of one of the commissioners
  - There will be a total of seven originals - one for each commissioner and one with no name
  - Print two of each
  - Staple Condemnation Notice with plats to the back of one copy to each commissioner
  - Paperclip the second copy to the back of the stapled copy
- Oath of Commissioners - original only
- Sheriff's Certification as to Awards and Costs with Commissioner's Costs Sheet attached (3 copies)
- Condemnation Commissioner's Statement - located on the W drive - fill out county, project and hearing date (6 copies - one for each commissioner)
- Affidavit of Mailing of Notice (if publication is needed)
- *Service Packet* (one for each condemnee plus one for the Sheriff)
  - Condemnation Notice with plats
  - Acceptance of Service Sheet - fill out hearing date and viewing time
  - Copy of the stamped "Certified True Copy" of the recorded Application to the Chief Judge
  - Copy of Selection and Appointment of Compensation Commissioners and Supplementary Order (completed by the Judge)

**\*Special Clauses for Sheriff Letter:**

If publication is needed the following clause needs to be included in the Sheriff Letter:

"Affidavit for publication is enclosed. Notice to the interested parties is being published in the (NAME OF NEWSPAPER) once each week for three (3) consecutive weeks, beginning with the issue of (DATE)."

If there are out-of-county condemnees the following clause needs to be included in the Sheriff Letter:

"All notices to out-of-county condemnees are being mailed to the proper sheriff for service and the Returns of Service will be forwarded to you upon our receipt of same."

***Hearing Packet***

The Condemnation Unit Coordinator will provide you with the final list of commissioners from the Sheriff.

Prepare packet one week before the hearing is scheduled in the following order:

- Hearing Cover Sheet - located on the W drive - the commissioners should be listed in the same order as on the Oath of Commissioners
  - Make 8 copies plus 1 for each owner and/or tenant
  - Attach Condemnation Notice with plats to each
  - Paperclip a copy of the *Draft* Condemnation Notice to the front of the first one in packet
  - Retain a copy in the parcel file
- Report of Compensation Commission with Endorsement of Sheriff attached (3 copies)
- Notice of Appraisal of Damages (2 copies)
- Affidavit of Final Offer (2 copies)
- Stamped and self-addressed envelope for each condemnee and/or tenant
- W-9 Form with W-9/Allocation Letter for each fee owner and tenant
  - Include a return envelope (with your initials)
  - If multiple fee owners include Allocation of Proceeds Statement

Place Hearing Packet in Hearing Officer's inbox

## **E-SUBMISSION PROCESS**

Go to Iowa Land Records E-Submission portal <https://iowalandrecords.org/esubmission/> and log in using your e-filing username and password.

After you log in, click on the blue "Add Group" button.

### ***ADDING A GROUP***

This page asks you to name the group you are submitting. Name the group based on the Project/Parcel Number. The Project Numbers will be entered exactly like you would enter them on your timesheet.

Example: STPN-16-3(22)--2J-89, Parcel 1 will be entered as: **2J890163022 1**

The next item is the "County" field. Select the county from the drop down menu, then click on the blue "Create" button.

### ***ADDING A DOCUMENT TO YOUR GROUP***

To begin adding documents to your new group, select the blue "Add Document" button. The next screen will be the process of entering information about each document being submitted.

### ***General Information Section***

#### Document Type

The first field on this screen is the "Document Type." This is a drop down menu with all of the standard document types available. Select the type of document you are submitting (See Exhibit "A" Document Types for Examples).

NOTE: Contact the County Recorder if you have any questions about the appropriate document type.

The fields below the "Document Type" field may change depending on the type of document you select, as certain information is required to be entered for different document types. A list of common document types and instructions for the **General Information** section for each are below:

\*\*\*\*\*

**WARRANTY DEED/QUITCLAIM DEED/DEED**

Select Warranty Deed/Quit Claim Deed/Deed from the Document Type drop down menu.

Date of Instrument

Enter the date the real estate document was executed by the parties.

Additional Transactions

Do not enter anything in this box for this document type.

Number of Parcels

Enter the number of *real estate parcels* of property. This figure is used to calculate the correct transfer fee. Each *real estate parcel* transferred requires \$5.00 for the Auditor's transfer fee (not to exceed \$50.00).

A *real estate parcel*, per Iowa Code §331.507, includes:

- a. For real estate located outside of the corporate limits of a city, all contiguous land lying within a numbered section.
- b. For real estate located within the corporate limits of a city, all contiguous land lying within a platted block or subdivision.

NOTE: Within a numbered section, platted block, or subdivision, land separated only by a public street, alley, or highway remains contiguous.

NOTE: If an owner's land is contiguous, within one numbered section/within one platted block/within one platted subdivision and we are acquiring several pieces of that owner's land that are separate, it is still considered 1 real estate parcel. EXAMPLE: Seller owns the entire North Half of Sec. 36. We are purchasing 0.15 acre in SWNW, 0.46 acre in NENE and 0.02 acre in the SENE of Sec. 36. Even though our 3 acquisition pieces are not contiguous, the transaction is considered to be for only 1 real estate parcel because the owner's land is contiguous.

Real Estate Value

Enter the consideration amount shown on the document. Do not include the damages amount. This figure is used to calculate the correct transfer tax.

Real Estate Transfer Tax Exemption

Unless there is a specific transfer tax exemption, leave this blank.

Declaration of Value Exemption

Choose *No. 6 Government as Grantor or Grantee* from the drop down list.

Groundwater Hazard Statement Exemption

Choose *No. 6 Government as Grantor or Grantee* from the drop down list.

\*\*\*\*\*

**EASEMENT**

Select Easements from the Document Type drop down menu.

Date of Instrument

Enter the date the real estate document was executed by the parties.

Number of Parcels

This depends on the county - some recorders will charge the transfer fee, some will not.

DO NOT CHARGE: Enter 0 for this field. Our easements (for any purpose i.e. Public Highway, Erosion Control, etc.) are not considered transfers and are not subject to a transfer fee.

OR

DO CHARGE: Enter the number of *real estate parcels* of property. This figure is used to calculate the correct transfer fee. Each *real estate parcel* transferred requires \$5.00 for the Auditor's transfer fee (not to exceed \$50.00).

A *real estate parcel*, per Iowa Code §331.507, includes:

- a. For real estate located outside of the corporate limits of a city, all contiguous land lying within a numbered section.
- b. For real estate located within the corporate limits of a city, all contiguous land lying within a platted block or subdivision.

NOTE: Within a numbered section, platted block, or subdivision, land separated only by a public street, alley, or highway remains contiguous.

NOTE: If an owner's land is contiguous, within one numbered section/within one platted block/within one platted subdivision and we are acquiring several pieces of that owner's land that are separate, it is still considered 1 real estate parcel. EXAMPLE: Seller owns the entire North Half of Sec. 36. We are purchasing 0.15 acre in SWNW, 0.46 acre in NENE and 0.02 acre in the SENE of Sec. 36. Even though our 3 acquisition pieces are not contiguous, the transaction is considered to be for only 1 real estate parcel because the owner's land is contiguous.

\*\*\*\*\*

**OTHER**

Select Other from the Document Type drop down menu.

Date of Instrument

Enter the date the real estate document was executed by the parties.

\*\*\*\*\*

**PARTIAL MORTGAGE RELEASE or FULL MORTGAGE RELEASE**

Select Partial Satisfaction of Lien or Satisfaction of Mortgage from the Document Type drop down menu.

Date of Instrument

Enter the date the real estate document was executed by the parties.

Additional Transactions

If your release references more than one original mortgage, enter the number of additional mortgages referenced.

If your release references only one original mortgage, leave this box blank.

Enter information about additional transactions *only* if there is more than one transaction per document. For example, if you are releasing 3 mortgages on the same document, you would enter 2 Additional Transactions.

\*\*\*\*\*

**AFFIDAVIT - NON-TRANSFER**

Select Affidavit - Non-Transfer from the Document Type drop down menu.

Date of Instrument

Enter the date the real estate document was executed by the parties.

\*\*\*\*\*

**CONDEMNATIONS**

Select Condemnations from the Document Type drop down menu.

Date of Instrument

Enter the date shown on the document.

\*\*\*\*\*

Once you have entered all of the document-specific information under the **General Information** section, click on the blue "Show Short Form" button.

### ***Party Information Section***

This screen asks you to enter either the Grantor or Grantee. Only one party/name is required, so select Grantor and enter the name of one of the Sellers.

For Condemnations: See Exhibit "B" - Additional Information to add all parties.

If applicable, include the suffix of the Grantor or Grantee by choosing one of the selections in the drop down box. Options are "Jr", "Sr", "Second", "Third". Next, if the Grantor or Grantee has a "Capacity" in the transaction, please be sure to select the appropriate title from the drop down box. i.e. "Administrator", "Executor", etc.

### ***Attached Document Section***

Now that the index information about the document has been entered, you may attach the document image file to the submission. Select the "Browse" button to locate the desired PDF document on your computer.

Open the folder and locate the document image you previously scanned and saved. Highlight the document and then select the "Open" button to indicate that you wish to upload the document to the E-Submission Service.

Select the blue "Save" button to complete the process of attaching the document to the submission.

The next screen has tabs - similar to those you might find on a file folder, and you will be automatically at the Review page (tab). You can navigate between the different tabs to enter in any additional information (See Exhibit "B" Additional Information).

### ***REVIEW TAB***

The Review tab summarizes the recording fees and the Iowa Land Records service fees that have been automatically calculated based on the numbers of pages in the document and the index information which has been entered, i.e. document type, number of parcels, property value and exemptions claimed. This fee will be charged to the IDOT account upon submission and official recording the by the County Recorder.

### ***Print out this page for accounting.***

If you do not have more documents to add to this group, select the "No" button adjacent to the text "More Documents".

If you have more documents to add to this group, make sure the "Yes" button adjacent to the text "More Documents" is selected. Repeat the above steps for each document you would like to add to your group.

If you have completed the entry of all required index information and you have attached all of the appropriate image(s), you may now submit this document to the group and you will be returned to the Group tab.

**GROUP TAB**

The Group tab (page) shows the status of your Group. Each document to be recorded is listed in a table, and you may review any of the information by clicking on the icons next to the document line.

Once you have reviewed your submission to ensure the documents are properly indexed and attached, you may submit the group to the County Recorder for review by selecting the blue "Submit Group" button.

The County Recorder will be notified of the submission and will then be able to review the document(s) for recording. If any document in a group is rejected by the County Recorder, you will receive an email notification directing you to log in to the E-Submission service to correct the problem and re-submit the group for recording. You will receive an email notification when the document(s) have been successfully recorded with a link to the recorded image.

\*\*\*\*\*

**EXHIBIT "A"  
DOCUMENT TYPES:**

Access Rights Deed	"Deed"
Affidavit of Ownership (Iowa Code Section 327G.77)	"Affidavit-Transfer"
Affidavit of Possession	<b>Send this by mail to the Recorder</b> Recorder needs to sign the Power of Attorney portion before recording
Affidavit of Surviving Spouse (Iowa Code Sec. 558.66)	"Affidavit-Transfer"
Application	"Condemnations"
Bill of Sale	"Deed"
Court Officer Deed	"Deed"
Dismissal of Condemnation	"Condemnations"
Easement (for any purpose)	"Easement"
Individual Trustee's Affidavit	"Affidavit-Non Transfer"
Interagency Transfer & Purchase Agreement	"Other" document type
Mortgage Release	"Satisfaction of Mortgage"
Patent	"Deed"
Partial Abandonment	"Other"
Partial Mortgage Release	"Partial Satisfaction of Lien"
Purchase Agreement	"Other"
Purchaser's Affidavit	"Affidavit-Non Transfer"
Quit Claim Deed	"Quit Claim Deed"
Temporary Easement Release	"Other"
TJ (Quitclaim to City/County)	"Quit Claim Deed"
Trustee Warranty Deed	"Warranty Deed"
Warranty Deed	"Warranty Deed"

## **EXHIBIT "B" ADDITIONAL INFORMATION**

### ***PARTIES TAB***

The Parties tab shows the information you entered for the Grantor/Grantee. You can add more parties to the transaction in you prefer by entering the party information and clicking the blue "Save" button.

You can also edit or delete the existing party entries by clicking on the corresponding icons to the left of the name.

Grantor - Someone making a legal transfer; or someone from whom something is transferred in a legal transaction. i.e. Sellers, Condemnees

Grantee - Recipient of a legal transfer; someone to whom something is transferred in a legal transaction. i.e. Iowa Department of Transportation, State of Iowa

**Note: The ILR E-Submission Service does not require submitters to enter information for more than one party.**

### ***PROPERTIES TAB***

The Properties tab is where you can enter the legal description of the property being transferred. If you wish to enter property information, click on the blue "New" button. You can enter information for Platted Land or Unplatted Land.

You can also edit or delete the existing property information by clicking on the corresponding icons to the left of the Property 1.

**Note: The ILR E-Submission Service does not require submitters to enter property information.**

### ***ASSOC. DOCS TAB***

The Assoc. Docs (Associated Documents) tab is where you will enter information about other documents which are associated with the document being recorded, i.e. Purchase Agreement.

**Note: The ILR E-Submission Service does not require submitters to enter Associated Document information.**

### ***ATTACHED DOC TAB***

The Attached Doc (Attached Document(s)) tab is where you can view the existing document for submission. You can also replace the existing document by clicking on the Browse button and following the steps for attaching a document outlined above.

***W-9 FORM GUIDELINES***

Every W-9 must:

- list a name in Box 1 (either individual name or business name)
- have an item checked in Box 3
- have the address shown in Boxes 5 & 6
- list the project and parcel in Box 7
- contain either a Social Security Number of an individual, or an Employer Identification Number of a business
- be signed and dated by the person filling out the form - it should be the same person whose name is in Box 1, or an authorized signor, if a business
- include the Agent's name or initials

Examples of typical W-9 Forms are attached.

EXAMPLE: INDIVIDUAL

Form <b>W-9</b> (Rev. December 2014) Department of the Treasury Internal Revenue Service	<b>Request for Taxpayer                  Identification Number and Certification</b>	Give Form to the requester. Do not send to the IRS.
---	--	---

Print or type See Specific Instructions on page 2.	1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank. <p style="text-align: center;">Joe Smith</p> 2 Business name/disregarded entity name, if different from above  3 Check appropriate box for federal tax classification; check only <b>one</b> of the following seven boxes: <input checked="" type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ Note. For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner. <input type="checkbox"/> Other (see instructions) ▶ _____
	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <small>(Applies to accounts maintained outside the U.S.)</small>
	5 Address (number, street, and apt. or suite no.) <p style="text-align: center;">123 Main St</p> 6 City, state, and ZIP code <p style="text-align: center;">Ames, IA 50010</p> 7 List account number(s) here (optional) <p style="text-align: center;">Story County NHSN-30-2(149)-2R-85 Parcel 1</p>
	Requester's name and address (optional) <p style="text-align: center;">DOT-ROW Katie Johnson</p>

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

**Note.** If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

Social security number										
1	2	3	-	4	5	-	6	7	8	9
1	2	3	-	4	5	-	6	7	8	9

or

Employer identification number									
1	2	3	-	4	5	6	7	8	9
			-						

**Part II Certification**

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

<b>Sign Here</b>	Signature of U.S. person ▶	Date ▶ 1/1/2016
------------------	----------------------------	-----------------

**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at [www.irs.gov/fw9](http://www.irs.gov/fw9).

**Purpose of Form**

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

*If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding? on page 2.*

By signing the filled-out form, you:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
- Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.

EXAMPLE: SOLE PROPRIETOR OR SINGLE-MEMBER LLC

Form **W-9**  
(Rev. December 2014)  
Department of the Treasury  
Internal Revenue Service

**Request for Taxpayer Identification Number and Certification**

Give Form to the requester. Do not send to the IRS.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.  
Joe Smith

2 Business name/disregarded entity name, if different from above  
Joe's Java Joint

3 Check appropriate box for federal tax classification; check only **one** of the following seven boxes:  
 Individual/sole proprietor or single-member LLC  
 C Corporation  
 S Corporation  
 Partnership  
 Trust/estate  
 Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ \_\_\_\_\_  
**Note.** For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner.  
 Other (see instructions) ▶ \_\_\_\_\_

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):  
 Exempt payee code (if any) \_\_\_\_\_  
 Exemption from FATCA reporting code (if any) \_\_\_\_\_  
*(Applies to accounts maintained outside the U.S.)*

5 Address (number, street, and apt. or suite no.)  
123 Main St

6 City, state, and ZIP code  
AMES, IA 50010

7 List account number(s) here (optional)  
Story County NHSN-30-2(149)-2R-85 Parcel 1

Requester's name and address (optional)  
DOT-ROW  
Kati Johnson

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

**Note.** If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

Social security number										
1	2	3	-	4	5	-	6	7	8	9
or										
Employer identification number										
			-							

**Part II Certification**

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

Sign Here Signature of U.S. person ▶ Joe Smith Date ▶ 1/1/2016

**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at [www.irs.gov/fw9](http://www.irs.gov/fw9).

**Purpose of Form**

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding?* on page 2.

By signing the filled-out form, you:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued).
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
- Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.

EXAMPLE: CORPORATION

Form <b>W-9</b> (Rev. December 2014) Department of the Treasury Internal Revenue Service	<b>Request for Taxpayer                  Identification Number and Certification</b>	Give Form to the requester. Do not send to the IRS.
---	--	---

Print or type See Specific Instructions on page 2.	1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank. <i>Smith Industries, Inc.</i>
	2 Business name/disregarded entity name, if different from above
	3 Check appropriate box for federal tax classification; check only one of the following seven boxes: <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input checked="" type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ Note. For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner. <input type="checkbox"/> Other (see instructions) ▶ _____
	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <i>(Applies to accounts maintained outside the U.S.)</i>
	5 Address (number, street, and apt. or suite no.) <i>123 Main St</i>
	6 City, state, and ZIP code <i>Ames, IA 50010</i>
	7 List account number(s) here (optional) <i>Story County NHSN-30-2(149) --2R-85 Parcel 1</i>
	Requester's name and address (optional) <i>DOT-ROW                  Katie Johnson</i>

<b>Part I Taxpayer Identification Number (TIN)</b>																					
Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see <i>How to get a TIN</i> on page 3.																					
	Social security number <table border="1" style="width:100%; height: 20px;"> <tr> <td style="width:10%;"></td> </tr> </table> OR Employer identification number <table border="1" style="width:100%; height: 20px;"> <tr> <td style="width:10%;"></td> </tr> </table>																				
Note. If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.																					

<b>Part II Certification</b>	
Under penalties of perjury, I certify that:	
1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and	
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and	
3. I am a U.S. citizen or other U.S. person (defined below); and	
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.	
<b>Certification instructions.</b> You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.	
Sign Here	Signature of U.S. person ▶ <i>Joe Smith</i>
	Date ▶ <i>1-1-2016</i>

**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at [www.irs.gov/w9](http://www.irs.gov/w9).

**Purpose of Form**

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

*If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding? on page 2.*

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.

EXAMPLE: MULTIPLE-MEMBER LLC

Form <b>W-9</b> (Rev. December 2014) Department of the Treasury Internal Revenue Service	<b>Request for Taxpayer                  Identification Number and Certification</b>	Give Form to the requester. Do not send to the IRS.
---	--	---

Print or type See Specific Instructions on page 2.	1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank. <u>Smith Instruments, LLC</u>		
	2 Business name/disregarded entity name, if different from above		
	3 Check appropriate box for federal tax classification; check only <b>one</b> of the following seven boxes: <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input checked="" type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ <u>C</u> Note. For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner. <input type="checkbox"/> Other (see instructions) ▶		4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <i>(Applies to accounts maintained outside the U.S.)</i>
	5 Address (number, street, and apt. or suite no.) <u>123 Main St</u>		Requester's name and address (optional) <u>DOT-ROW</u>
	6 City, state, and ZIP code <u>Ames IA 50010</u>		<u>Katie Johnson</u>
	7 List account number(s) here (optional) <u>Story County NNSL-30-2(149)-2R-85 Parcel 1</u>		

<b>Part I Taxpayer Identification Number (TIN)</b>	
Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see <i>How to get a TIN</i> on page 3.	Social security number [ ][ ] - [ ][ ] - [ ][ ][ ][ ]
Note. If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.	or Employer identification number [ ][ ] - [ ][ ][ ][ ][ ][ ][ ][ ][ ]

<b>Part II Certification</b>	
Under penalties of perjury, I certify that:	
1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and	
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and	
3. I am a U.S. citizen or other U.S. person (defined below); and	
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.	
<b>Certification instructions.</b> You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.	
Sign Here	Signature of U.S. person ▶ <u>[Signature]</u>
	Date ▶ <u>1-1-2016</u>

**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at [www.irs.gov/fw9](http://www.irs.gov/fw9).

**Purpose of Form**

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding?* on page 2.

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.

EXAMPLE: INTER-VIVOS TRUST  
(GRANTOR IS ALIVE)

Form **W-9**  
(Rev. December 2014)  
Department of the Treasury  
Internal Revenue Service

**Request for Taxpayer  
Identification Number and Certification**

Give Form to the requester. Do not send to the IRS.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.  
Joe Smith

2 Business name/disregarded entity name, if different from above  
Joe Smith Trust

3 Check appropriate box for federal tax classification; check only one of the following seven boxes:  
 Individual/sole proprietor or single-member LLC  
 C Corporation  
 S Corporation  
 Partnership  
 Trust/estate  
 Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ \_\_\_\_\_  
 Note. For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner.  
 Other (see instructions) ▶ \_\_\_\_\_

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):  
 Exempt payee code (if any) \_\_\_\_\_  
 Exemption from FATCA reporting code (if any) \_\_\_\_\_  
*(Applies to accounts maintained outside the U.S.)*

5 Address (number, street, and apt. or suite no.)  
123 Main St **TRUSTEE'S ADDRESS**

6 City, state, and ZIP code  
Ames, IA 50010

7 List account number(s) here (optional)  
Story County NHSN-30-2(149)-2R-85 Parcel 1

Requester's name and address (optional)  
DOT-ROW  
Katie Johnson

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

**Social security number**

1	2	3	-	4	5	-	6	7	8	9
---	---	---	---	---	---	---	---	---	---	---

or

**Employer identification number**

--	--	--	--	--	--	--	--	--	--

**Note.** If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

**Part II Certification**

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

**Sign Here**      Signature of U.S. person ▶ *Joe Smith*      Date ▶ 1/1/2016

**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at [www.irs.gov/fw9](http://www.irs.gov/fw9).

**Purpose of Form**

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding?* on page 2.

By signing the filled-out form, you:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
- Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.

EXAMPLE: TESTAMENTARY TRUST OR INTER VIVOS TRUST (GRANTOR IS DECEASED)

Form **W-9**  
(Rev. December 2014)  
Department of the Treasury  
Internal Revenue Service

**Request for Taxpayer Identification Number and Certification**

Give Form to the requester. Do not send to the IRS.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.  
Joe Smith Trust

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification; check only one of the following seven boxes:  
 Individual/sole proprietor or single-member LLC  
 Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ \_\_\_\_\_  
 Other (see instructions) ▶ \_\_\_\_\_  
 C Corporation  
 S Corporation  
 Partnership  
 Trust/estate  
 Note. For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner.

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):  
 Exempt payee code (if any) \_\_\_\_\_  
 Exemption from FATCA reporting code (if any) \_\_\_\_\_  
(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.)  
123 Main St **TRUSTEE'S ADDRESS**

6 City, state, and ZIP code  
Ames IA 50010

7 List account number(s) here (optional)  
Story County NHSN-30-2(14)-2R-85 Parcel 1

Requester's name and address (optional)  
DOT-ROW  
Katie Johnson

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

**Social security number**

--	--	--	--	--	--	--	--	--	--

or

**Employer identification number**

--	--	--	--	--	--	--	--	--	--

**ASSIGNED WHEN GRANTOR DIES** →

**Part II Certification**

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

**Sign Here** Signature of U.S. person ▶ Joe Smith Jr. Date ▶ 1-1-2016

**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at [www.irs.gov/fw9](http://www.irs.gov/fw9).

**Purpose of Form**

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding?* on page 2.

By signing the filled-out form, you:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
- Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.



**REAL ESTATE TAX AND SPECIAL ASSESSMENT**

**COLLECTION ASSISTANCE**

**FOR LAND ACQUIRED THROUGH EMINENT DOMAIN**

**SECTION 427.2 OF THE CODE OF IOWA**



**RIGHT OF WAY OFFICE**

**(Revision July 1, 2010)**

**OUTLINE**

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**1. Iowa Code Section 427.2. Taxable property acquired through eminent domain.**

When public authorities acquire land for public use or public projects, they are required to assist in the collection of property taxes and special assessments on that land. This makes it easier for taxing authorities to collect real estate taxes payable for the year in which land is acquired. The Iowa Department of Transportation (DOT) and all state agencies, cities, and counties acquiring land through the exercise of the power of eminent domain for public purposes are affected.

When a total property is acquired by a public authority but the land is worth less than the amount of taxes due, taxing authorities are required to accept the amount of just compensation paid for the acquisition of the property as full payment. When only part of a property is acquired and the amount of taxes due exceeds the amount paid as just compensation for the acquisition of the property, the taxing authority must collect taxes from the remaining property.

Land owners are required to pay real estate taxes on a property acquired by a public authority that become due and payable for the year the land is acquired for the period that the owner retains possession. The county treasurer is required to cancel the remainder of the taxes for that year. When part but not all of a property is acquired for public purposes, taxing authorities may collect taxes and special assessments the property owner is obligated to pay from the remaining property.

When an entire property is acquired, the property owner is obligated to pay in full all special assessments which have been levied and spread against the property. Levied and spread special assessments are those that have been certified to the county treasurer for collection prior to the acquiring authority's possession date.

Real estate occupied by a public road, and rights of way for established public levees and rights of way for established, open, public drainage improvements is not taxable. Similarly, for so long as the acquiring public authority is the owner of the land, taxing authorities are instructed not to certify any special assessment for collection. There is provision for the collection of taxes and special assessments when land no longer needed for public purposes is sold. The new owner is obligated to pay property taxes for the year in which the property is purchased. In addition, once the land is sold by the public authority, special assessments may be certified to the county treasurer for collection from the new owner. A special assessment originally levied during public ownership may, upon the sale of the property, be certified to the county treasurer by the assessing authority. It would be prorated on the basis of when the buyer takes possession of the property.

Taxes may also include mobile home taxes.

**2. Some land acquisitions for public purposes are not affected.****a. Transactions that are not impacted.**

If a public authority acquires only a temporary easement or a temporary right to enter upon land, for example, to install or rehabilitate a street or highway entrance, the work has no impact on the tax parcel's value. The land has essentially the same value both before and after the acquisition of such rights. The acquisition of tenant interests in month-to-month or annual agricultural lease situations similarly have no value or tax impact.

Generally, the acquisition of a small portion of a property does not require any special procedure or assistance in property tax collection. In some cases the cost incurred to compute the amount of tax and special assessment for a small acquisition would equal or exceed the amount of tax sought to be collected. See Examples A & B.

When only a small portion of a property is acquired, both taxes and future installments of a special assessment will be collected from the value of the remaining property, and the remaining property will continue to be security for their payment. Sometimes a property owner is paid for damages or the cost to cure damages to the remaining property caused by a project. One example is the cost to repair a fence or a driveway. These payments are made to preserve or restore the value of the remaining property and are not intended as compensation for a transfer of land.

**b. Transactions that are impacted.**

The law does effect the collection of property taxes and special assessments when a total property is acquired. It also has an impact when the acquisition of part of a property for a public road or other public purpose causes a substantial reduction in the value of the remaining property. In these cases, it may be necessary for taxes and special assessments to be collected, if they are to be collected at all, from the proceeds of the acquisition agreement at the time of closing. See Examples C & D.

**3. Tax collection assistance when land is acquired through negotiated agreement.****a. Right of way or land acquisition agreement language.**

DOT right of way acquisition agreements for acquisition of property, either in total or in part, for public road purposes will include the seller's tax payment responsibilities. Sellers agree to pay all liens and assessments against the property including all taxes and special assessments payable to the date of the surrender of possession.

- b. Acquisition agreement copies may be furnished to the treasurer.

A copy of the right of way acquisition agreement will be furnished to the treasurer by DOT when use of the proceeds may be required for payment of real property taxes and special assessments. A copy is furnished when an entire property is acquired. A copy is also furnished when the amount of all unpaid liens, taxes, and special assessments equal or approximate the appraised value of the remaining property if only part of a property is acquired.

A copy of the agreement is not necessarily provided if the value of a remaining property is far in excess of the amount of all property taxes and special assessments due and payable at the time of acquisition of part of a property. In these cases unpaid property taxes and special assessments will be collected from the landowner's remaining property.

- c. Treasurer as payee on warrant in payment for property and notice of payment.

Unless a property owner furnishes proof of payment, the county treasurer is named as a payee on warrants to pay for public land acquisitions when a copy of the agreement has been furnished to the treasurer. The treasurer is also notified when payment is actually sent to the owner. See Page 12. In these cases the treasurer has an opportunity to collect the taxes and special assessments in consideration for the treasurer's endorsement of the warrant.

- d. Notice of surrender of possession.

The treasurer is furnished notice of the surrender of possession of properties acquired. This notice will generally be either through receipt of a copy of the closing letter with survey plat or graphic exhibit attached or by postcard. A sample closing letter and a sample postcard are provided. See Pages 13 and 14.

When the DOT acquires land known to be in excess of that needed for a project, the notice of surrender of possession indicates what portion is estimated to be excess land. See Example D(II).

#### **4. Tax collection assistance when land is acquired through an eminent domain proceeding.**

Real estate taxes and special assessments may be collected by taxing authorities from the proceeds of compensation commission awards.

- a. Notice of Condemnation.

Taxing authorities are notified of a DOT condemnation action through the service of a Notice of Condemnation on the county auditor. If the property is

located within a city, the Notice of Condemnation is also served on the city clerk.

b. Treasurer as payee on compensation commission award warrant.

Compensation commission award warrants include the county treasurer as a payee unless the property owner provides proof that taxes and special assessments are paid.

c. Notice of deposit of compensation commission award.

So that taxing authorities can compute taxes and special assessments due, they are informed when the DOT has the right of possession. Taxes and special assessments are due the taxing authority until the acquiring authority has the right to obtain physical possession of property acquired by condemnation. Generally, the acquiring authority has the right to obtain possession when the award is deposited with the sheriff in accord with Iowa Code Section 6B.25. Iowa Code Section 6B.26 applies if an acquired property includes an owner-occupied residence, outbuildings in proximity to the residence, an orchard or garden. In those circumstances the acquiring authority has the right to obtain possession when the damages have been finally determined and paid. The DOT has the right of possession when the damages have finally been determined and paid or after 180 days, whichever is earlier. If a compensation commission award has been deposited with the sheriff and no appeal is taken to the district court, damages have been finally determined and paid.

d. Notice of appeal from award of compensation commission.

The Special Assistant Attorney General handles appeals from compensation commission awards for the DOT acquisitions. The treasurer may not be a payee on warrants in settlement of cases in appeal unless the taxing authority files an appearance and claim for their payment. Inquiries concerning parcels for which an appeal has been filed should be directed to the Special Assistant Attorney General, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

e. Sample application and order.

A sample Application for the Payment of Taxes and Special Assessment and a sample Order of the District Court are attached. See Pages 15-18.

**5. Tax collection assistance when land is sold.**

In some cases an acquiring authority purchases a total property or a property larger than is actually needed to accomplish the public works project. This generally

occurs because of significant damages caused by the project to the remainder of the property.

Iowa Code Section 6B.54(8) requires acquiring agencies to offer to acquire uneconomic remnants or remainders of parcels. The DOT is authorized in Iowa Code Section 306.22 to sell land no longer needed for highways. It also requires that the property sold be listed on the tax rolls and taxed to the purchaser.

Iowa Code Section 427.2 requires county treasurers to cancel all taxes and special assessments certified against a property acquired by the acquiring authority as of the date of possession, and for the period of public ownership. If the property is sold, the new buyer will be responsible for any special assessment levied after the acquiring authority sells the property, and for those levied during public ownership and certified to the county treasurer for collection on a prorated basis. Neither taxes nor special assessments are paid by the acquiring authority during its period of ownership. Once a property is sold, the new buyer will succeed to tax payment and special assessment responsibilities prorated from the date of the purchase.

Land acquired by the DOT in excess of highway needs is often sold for cash or on contract and returned to the tax rolls within two years from the date it is acquired. The buyer must pay taxes in the same manner as if it were a sale between two private individuals. Taxing authorities are authorized to appraise, assess, and collect taxes from the property sold, for the year in which the property was sold. It is not necessary for taxing authorities to wait 18 months to go through the assessment process before the first taxes are collected on such property. Also, unpaid installment payments for special assessments must be paid. See Example E (I).

If land is sold by the DOT with payment on an installment contract basis, it is possible for the contract purchaser to default. In the event of a default, the contract will be forfeited and the DOT will reacquire ownership of the property. The DOT may then pay any unpaid taxes prorated to when the DOT reacquires the property, and may pay unpaid special assessments. Again, until the property is sold to a private party, the taxes would be canceled. See Example E (II).

The DOT will notify taxing authorities that land in excess of highway needs has been sold. Notice will be sent whether the land is sold for cash or on an installment contract basis. The notice may be by copy of a letter transmitting the contract or a State Patent. Taxing authorities are also notified when land installment contracts are forfeited. Inquiries concerning land in excess of highway needs should be directed to Property Management, Office of Right of Way, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

## **6. DOT payment of special assessments.**

Publicly owned right of way is not taxable. State-owned property other than right of way, is subject to special assessments for public improvements which benefit that property. The property referred to generally consists of maintenance facilities, garages,

scale sites, materials storage areas, and property that is not right of way. See Iowa Code Section 307.45.

### 7. Abatement of Taxes.

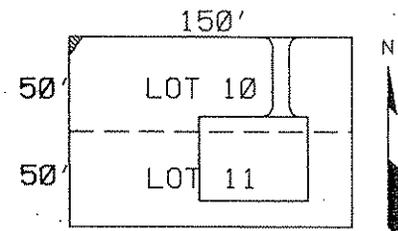
Iowa Code Section 445.63 sets forth the procedure for the disposition of mobile home taxes, regular property taxes and special assessments which were due and payable prior to property being acquired by the state or a political subdivision for public purposes or projects that remain unpaid after the acquisition.

### 8. Examples. The following facts will be used for all examples:

Mr. A owns Lots 10 & 11, Block 1, Any town, Iowa. It is an improved property on which Mr. A claims homestead. It is taxed as one parcel. The assessed value of the land is \$17,500 and the assessed value of the residence is \$55,000. There is a mortgage of \$65,000. Special assessment for paving is spread. Mr. A has paid the 2009 installment of specials leaving 6 installments unpaid in the total amount of \$3,510. The 2008/2009 real estate taxes payable in 2009/2010 are \$1800 and Mr. A has paid the first installment. The DOT takes possession on October 30, 2009.

#### Example A: (See Page 4)

The DOT acquires 200 sq. ft. in the NW Corner of Lot 10 for road purposes. In this example the acquisition is a very small portion of the total property, and the computation costs might exceed the amount of property taxes to be collected (200 sq. ft./15,000 sq. ft. = 1.333%). Mr. A would pay the total tax installments due in March 2010, Sept. 2010 and March 2011. Future statements would be for the reduced parcel.

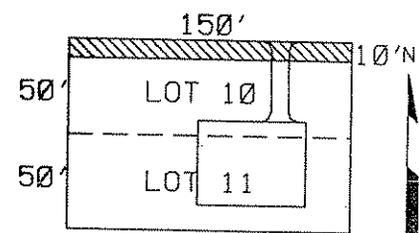


EX. A

For the special assessment, the total balance of \$3,510 is unchanged and Mr. A will pay \$585 in each of the next six years.

#### Example B: (See Page 4)

The DOT acquires the North 10 ft. of Lot 10 (1500 sq. ft.), or 10% of the total parcel (1500/15000) for road purposes. Again Mr. A would pay the total tax installment due in March 2010. In Sept. 2010 Mr. A would pay 100% of 4/6ths plus 90% of 2/6ths of the installment then due (\$600 + \$270 = \$870). In



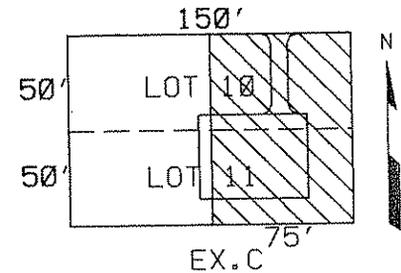
EX. B

March 2011 he would pay 90% of the installment then due or \$810. The Treasurer would then cancel the balance of \$90. Future statements will be for the reduced parcel.

For the special assessments, no adjustment would be made and Mr. A would continue to pay the annual installments as they become due.

**Example C: (See Page 4)**

The DOT acquires the east half of the total property, including the house, for road purposes for \$75,000. The remainder is 7500 sq. ft. with a value of \$7,500. Because the value of the remainder is less than the total taxes, specials and mortgage, the Treasurer would be named as payee on the DOT's warrant. When Mr. A presents the warrant to the Treasurer for endorsement, the following taxes and specials should be collected:



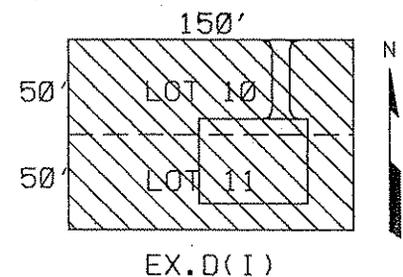
- a. all of the tax installment due in March 2010.
- b. in Sept. 2010, Mr. A would pay 100% of 4/6ths plus 50% of 2/6ths (\$600 + \$150 = \$750). For the March 2011 installment he would pay 50% or \$450. The Treasurer would cancel the balance of \$450. Future statements will be for the reduced parcel.
- c. all installments of specials spread and payable.

No tax statement should be issued for the parcel acquired by the DOT.

Likewise, future special assessments would be levied and spread against the remaining property owned by Mr. A. Any future specials levied and spread against the property acquired by the DOT would be canceled.

**Example D: (See Pages 4 and 5)**

I. The DOT acquires the entire parcel for road purposes. The Treasurer would be named as payee on the DOT's warrant. When Mr. A presents the warrant to the Treasurer, the following taxes and specials should be collected:

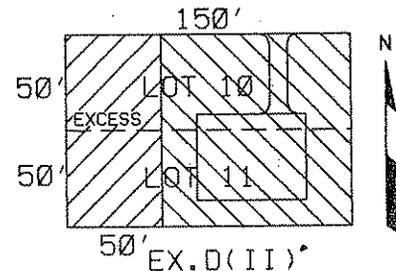


- a. all of the tax installment due in March 2010.

- b. 4/6ths of the tax computed to be payable in Sept. 2010 based on the levy currently in effect.
- c. all installments of specials spread and payable.

The Treasurer would then cancel the remaining taxes payable in 2010/2011. Any future taxes would be abated.

II. The DOT acquires the entire parcel; however, the west 50 ft. of the total property is excess to be resold. The Treasurer would be notified that 33 $\frac{1}{3}$ % is excess land, and would be named as payee on the DOT's warrant. When Mr. A presents the warrant to the Treasurer, the following taxes and specials should be collected:



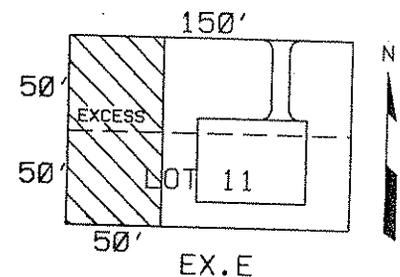
- a. all of the tax installment due in March 2010.
- b. 4/6ths of the tax computed to be payable in Sept. 2010 based on the levy currently in effect.
- c. all installments of specials spread and payable.

When the tax statements payable in 2010/2011 are issued, the Treasurer should deduct the amount previously collected from Mr. A and cancel the remaining balance. Until the excess land has been sold by Patent or installment contract, real estate taxes are to be canceled.

During the period of time the property is held by the DOT, the taxing authorities shall not certify a special assessment to the Treasurer for collection and the Treasurer shall cancel any special assessments certified for collection while the land is in public ownership.

**Example E: (See Page 7)**

The excess land acquired by the DOT in Example D (II) is sold to ABC Corp. with possession on 1/15/2011. A special assessment had been levied against said parcel on 4/1/2010 (after DOT's acquisition) in the total amount of \$2,600, but not certified to the Treasurer. The prorated amount of 2009/2010 taxes payable in 2010/2011 not paid by Mr. A in Example D (II) should have been canceled by the Treasurer.



- I. The Treasurer receives notice of the sale to ABC Corp. from the DOT in January 2011. At that time there should be no unpaid taxes due; there would be nine

installments due on the special assessment. When taxes payable in 2011/2012 are levied and spread on or about July 1, 2011, the Treasurer should cancel 7/12ths and send a revised statement to ABC Corp. for the remaining 5/12ths. The assessing authority may certify the special assessment, prorated on the basis of when the buyer takes possession of the property. In that event, 11/12ths of the special assessment would be certified and the Treasurer would send a statement to ABC Corp. for the installment due July 1, 2010, and payable Sept. 2010.

II. ABC Corp. purchased the excess land parcel on contract. In 2013 it was unable to pay its debts. On 7/18/2013 the contract was forfeited and the DOT repossessed the property. The March 2013 installment of taxes is unpaid and delinquent. Upon reacquisition of the property, the DOT should pay the delinquent March 2013 taxes, all 2012/2013 taxes due in 2013/2014 and 1/12th of the 2013/2014 taxes due in 2014/2015. The remainder of the taxes should be canceled. The DOT should also pay in full the balance of the special assessment.

800 Lincoln Way, Ames, Iowa 50010-6993    PHONE            515-239-\_\_\_\_\_  
 TOLL FREE            866-282-5809  
 FAX                    515-239-1247  
 \_\_\_\_\_@dot.iowa.gov

**When communicating, refer to:**

County  
 Project:  
 Parcel No.

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 Dear Mr. \_\_\_\_\_:

I have received the signed documents required for this transaction. Enclosed is our conveyance payment in the total amount of \$\_\_\_\_.00 payable to \_\_\_\_\_. Endorsement by all payees is required.

Also enclosed is our Closing Statement in duplicate. Please review this statement, sign and date the original and return it to me in the envelope provided. Only one seller's signature is required. The copy is for your records.

You are responsible for payment of real estate taxes on the property acquired to the State's date of possession. The county taxing authority shall prorate the real estate taxes based on the possession date of \_\_\_\_\_, 20\_\_\_\_. To avoid late penalties, payments should be made when they are due even though the County may not send a tax statement.

Thank you for your cooperation and patience in this matter.

Sincerely,

\_\_\_\_\_, Agent  
 Title and Closing Unit  
 Office of Right of Way

\_\_\_\_\_  
 Enc.

c: \_\_\_\_ County Treasurer (w/copy of survey or graphic plat)

Form 635001  
7-98

County & Project No. \_\_\_\_\_

Parcel No. \_\_\_\_\_

Date of Possession \_\_\_\_\_

Seller \_\_\_\_\_

Possession Warrant delivered in person on this date.

Possession Warrant to be mailed directly to payee.

SIGNED \_\_\_\_\_

SIGNED \_\_\_\_\_

(File Copy)

Date \_\_\_\_\_

County & Project No. \_\_\_\_\_

Parcel No. \_\_\_\_\_

Date of Possession \_\_\_\_\_

Seller \_\_\_\_\_

Possession Warrant delivered in person on this date.

Possession Warrant to be mailed directly to payee.

You should collect the taxes/special assessments due from Seller when the warrant is presented for your endorsement.

SIGNED \_\_\_\_\_

Iowa DOT Representative

(Treasurer's Copy)

County & Project No. \_\_\_\_\_

Parcel No. \_\_\_\_\_

Possession Warrant delivered in person on this date.

Possession Warrant to be mailed directly to payee.

**Warrant must be endorsed by all payees before it is cashed.**

You are responsible for payment of real estate taxes prorated to \_\_\_\_\_  
Date of Possession

The Treasurer will collect the taxes according to State law when the warrant is presented for endorsement.

Signed \_\_\_\_\_ Date \_\_\_\_\_

Iowa DOT Representative

(Seller's Copy)



\_\_\_\_\_, Treasurer  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

IN THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY

JOE DOE,  
  
Plaintiff,  
  
v.

IOWA DEPARTMENT OF TRANSPORTATION  
and \_\_\_\_\_ COUNTY, IOWA,  
  
Defendants.

\* NO. \_\_\_\_\_  
\*  
\* APPLICATION & CLAIM OF  
\* COUNTY TREASURER FOR  
\* PAYMENT OF PROPERTY TAX  
\* & SPECIAL ASSESSMENTS  
\* FROM THE AWARD OF  
\* COMPENSATION TO BE  
\* ADJUDICATED IN THIS CAUSE.  
\*

The Claimant, Treasurer of \_\_\_\_\_ County, Iowa, states as follows:

1. That on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_, the \_\_\_\_\_,  
(Iowa DOT, City or County)  
acquired certain rights in land for road purposes through condemnation proceedings from  
the above captioned plaintiff who is the owners or interest holder thereof.

2. The award of the compensation commission was in the sum of \_\_\_\_\_  
Dollars (\$ \_\_\_\_\_) for which sum a warrant has been deposited with the Sheriff of  
\_\_\_\_\_ County, Iowa, on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_,  
made payable to \_\_\_\_\_

Pursuant to Section 6B.26, Code of Iowa, the \_\_\_\_\_ has the right to  
(Iowa DOT, City of County)  
obtain possession of the property condemned (or will have the right to obtain possession  
of the property condemned on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_, or on the  
day the owner surrenders possession of the property to the \_\_\_\_\_,  
(Iowa DOT, City or County)  
whichever day is earlier).

3. Pursuant to Section 427.2, Code of Iowa, the owner of the property acquired  
for road purposes shall pay all property taxes and property special assessments for the

property acquired which are due and payable and also those which will become due and payable for the fiscal year in which the property is acquired until the \_\_\_\_\_ (Iowa DOT, City or County) either obtains possession of the property or the right to obtain possession of the property as authorized by Section 6B.26, Code of Iowa, and such property taxes and special assessments may be paid from the proceeds of the condemnation award as finally adjudicated by this Court.

4. Property taxes and special assessments required to be paid are:

WHEREFORE, the Claimant respectfully requests this Court to enter an Order instructing a warrant be prepared and delivered payable to the Treasurer of \_\_\_\_\_ County, Iowa, in the amount of \$ \_\_\_\_\_ as full and final payment of all property taxes and special assessments due and payable on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the day the warrant in payment of the award of the compensation commission was deposited with the Sheriff (and in the amount of \$ \_\_\_\_\_ for each month thereafter until the owner of the land acquired surrenders possession of the property to the \_\_\_\_\_ or until the \_\_\_\_\_ has (Iowa DOT, City or County) (Iowa DOT, City or County) the right to obtain possession of the property as authorized by Section 6B.26 of the Code of Iowa, whichever is earlier).

\_\_\_\_\_  
(Type/Print Name)  
Treasurer \_\_\_\_\_ County, Iowa.

\_\_\_\_\_  
(Type/Print Name)  
County Attorney, \_\_\_\_\_ County, Iowa.

IN THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY

JOE DOE,

Plaintiff,

v.

IOWA DEPARTMENT OF TRANSPORTATION  
and \_\_\_\_\_ COUNTY, IOWA,

Defendants.

\* NO. \_\_\_\_\_

\*

\*

\*

\*

\*

\*

\*

\*

\*

ORDER FOR PAYMENT OF  
PROPERTY TAX & SPECIAL  
ASSESSMENTS FROM THE  
AWARD OF COMPENSATION  
IN THIS CAUSE.

NOW on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_, the Application and Claim of the  
Treasurer of \_\_\_\_\_ County for the payment of property tax and special assessments  
from the award of compensation to be (or as) finally adjudicated in this cause comes  
before this Court wherein the Claimant requests the disbursement of a portion of certain  
funds now held by the \_\_\_\_\_ of \_\_\_\_\_ County in the above  
(Sheriff, Clerk of Court, Treasurer)  
entitled action.

After reviewing this Application and the Court file and hearing statements of counsel,  
this Court finds that the award of the compensation commission was in the sum of  
\$ \_\_\_\_\_ for which a warrant is presently on deposit with the \_\_\_\_\_  
(Sheriff, Clerk of Court, Treasurer)  
(or has been deposited with the Treasurer as condemnation funds as required by Section  
331.656, Code of Iowa). Plaintiff has made application for an order for disbursement of a  
portion of that award to the property owners without prejudice to or effect upon the right of  
any of the parties herein as authorized by Section 6B.25, Code of Iowa. This cause has  
been duly tried (or The terms and conditions for the settlement of this cause have been  
agreed to by the parties and approved by this Court) and the final award of just compensation  
has been determined to be \$ \_\_\_\_\_.

The Treasurer of \_\_\_\_\_ County has made application and claim for the payment of property taxes from the award of compensation in this cause as authorized by Section 427.2, Code of Iowa. This Court finds that the Plaintiff is obligated to pay \$ \_\_\_\_\_ in property taxes and special assessments for the property acquired and that the same should be and is hereby ordered to be paid to the Treasurer of \_\_\_\_\_ County from the award of compensation in this cause.

The Court further finds that the \_\_\_\_\_ of \_\_\_\_\_ County (Sheriff or Clerk of Court) should be and is hereby authorized to return the warrant in the amount of \$ \_\_\_\_\_ to the \_\_\_\_\_; that the \_\_\_\_\_ should be and (Iowa DOT, City or County) (Iowa DOT, City or County) is hereby authorized to issue two warrants in lieu thereof in the amounts of \$ \_\_\_\_\_ and \$ \_\_\_\_\_ payable to the Treasurer of \_\_\_\_\_ County and the \_\_\_\_\_ (condemnees or interest holders)

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the right to possession of the property condemned herein on the part of the \_\_\_\_\_ shall remain (Iowa DOT, City or County) and continue as provided by law.

\_\_\_\_\_  
Judge, \_\_\_\_\_ Judicial District of Iowa.

Copies to:

IOWA DEPARTMENT OF TRANSPORTATION  
800 Lincoln Way  
Ames, IA 50010

\_\_\_\_\_ COUNTY ATTORNEY

Anywhere, IA \_\_\_\_\_

**427.2 TAXABLE PROPERTY ACQUIRED THROUGH EMINENT DOMAIN.**

Real estate occupied as a public road, and rights-of-way for established public levees and rights-of-way for established, open, public drainage improvements shall not be taxed.

When land or rights in land are acquired in connection with or for public use or public purposes, the acquiring authority shall assist in the collection of property taxes and special assessments. However, assistance in the collection of the property taxes does not require the payment of property taxes on the property acquired which exceed the amount of just compensation offered as required by section 6B.45 for the acquisition of the property.

The property owner shall pay all property taxes which are due and payable when the property owner surrenders possession of the property acquired and also those which become due and payable for the fiscal year the property is acquired in an amount equal to one-twelfth of the taxes due and payable on the property acquired for the preceding fiscal year multiplied by the number of months in the fiscal year in which the property was acquired which elapsed prior to the month in which the property owner surrenders possession, and including that month if the surrender of possession occurs after the fifteenth day of a month. For purposes of computing the payments, the property owner has surrendered possession of property acquired by eminent domain proceedings when the acquiring authority has the right to obtain possession of the acquired property as authorized by law. When all of the property is acquired for public use or public purposes, the property owner shall pay all special assessments in full which have been certified to the county treasurer for collection before the possession date of the acquiring authority. When part but not all of the property is acquired for public use or public purposes, taxing authorities may collect property taxes and special assessments which the property owner is obligated to pay, in accordance with chapter 446, from that part of the property which is not acquired. The county treasurer shall collect and accept the payment received on property acquired for public use or public purposes as full and final payment of all property tax on the property.

For that portion of the prorated year for which the acquiring authority has possession of the property or part of the property acquired in connection with or for public use or public purposes, all taxes shall be canceled by the county treasurer.

From the date of possession by the acquiring authority for land or rights in land acquired in connection with or for public use or public purposes, and for as long as ownership is retained by the acquiring authority, a special assessment shall not be certified to the county treasurer for collection while under public ownership. However, the assessment may be certified for collection to the county treasurer upon the sale of the acquired property by the acquiring authority to a new owner on a prorated basis. Special assessments certified to a county treasurer for collection while under public ownership shall be canceled by the county treasurer.

Upon sale of the acquired property by the acquiring authority to a new owner, the new owner shall pay all property taxes which become due and payable or would have become due and payable but for the acquisition by the acquiring authority for the fiscal year the property is acquired by the new owner in an amount equal to one-twelfth of the taxes

multiplied by the number of months in the fiscal year in which the new owner acquired the property which occurred after the month in which the new owner acquired the property.

**Section History: Early Form**

[C73, § 809; C97, § 1344; C24, 27, 31, 35, 39, § 6945; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 427.2; 82 Acts, ch 1183, § 1]

**Section History: Recent Form**

86 Acts, ch 1153, § 1; 87 Acts, ch 40, § 1



### 306.22 SALE OF UNUSED RIGHT-OF-WAY.

When title to any tract of land has been or may be acquired for the construction or improvement of any highway, and when in the judgment of the agency in control of the highway, the tract will not be used in connection with or for the improvement, maintenance, or use of the highway, the agency in control of the highway may sell the tract for cash.

The department may contract for the sale of any tract of land subject to the following terms and conditions:

1. The discounted present market value of the contract offer, including the cash down payment, shall exceed one hundred ten percent of the highest cash offer submitted for the tract if a cash offer is received. The discount rate shall be the rate of interest stated in the contract.
2. The cash down payment shall be equal to or in excess of five percent of the total purchase price.
3. The term of the contract shall not exceed ten years.
4. The rate of interest stated in the contract shall not be less than the prevailing rate of interest charged on contract land sales by sellers in the county or general area in which the tract of land is located.
5. The department shall advertise for cash bids and contract offers before accepting a contract offer.
6. The appraised value of property sold under a land contract sale shall be at least five thousand dollars.
7. Any tract of land sold on contract shall be listed on the tax rolls by and taxed to the contract purchaser, as provided in chapters 428 and 443; assessed and valued as provided

in chapter 441; taxes levied as provided in chapter 444; collected as provided in chapter 445; and subject to tax sale, redemption, and apportionment of taxes as provided in chapters 446 to 449. The contract purchasers shall discharge and pay all taxes.

If any tract of land is sold, the sale shall be subject to the right of a utility association, company, or corporation to continue in possession of a right-of-way in use at the time of the sale.

**Section History: Early Form**

[C35, § 4755-fl; C39, § 4755.44; C46, 50, § 313.53; C54, 58, 62, 66, § 306.16; C71, 73, 75, 77, 79, 81, § 306.22]

**Section History: Recent Form**

86 Acts, ch 1245, § 1987; 92 Acts, ch 1163, § 71  
Referred to in § 306.42



**307.45 STATE-OWNED LANDS -- ASSESSMENT.**

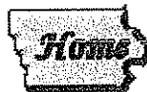
1. Cities and counties may assess the cost of a public improvement against the state when the improvement benefits property owned by the state and under the jurisdiction and control of the department's administrator of highways. The director shall pay from the primary road fund the portion of the cost of the improvement which would be legally assessable against the land if privately owned.

2. Assessments against property under the jurisdiction of the department's administrator of highways shall be made in the same manner as those made against private property, except that the city or county making the assessment shall cause a copy of the public notice of hearing to be mailed to the director by certified mail.

3. Assessments against property owned by the state and not under the jurisdiction and control of the department's administrator of highways shall be made in the same manner as those made against private property and payment shall be made by the executive council from any funds of the state not otherwise appropriated.

**Section History: Recent Form**

86 Acts, ch 1244, § 40; 91 Acts, ch 268, §511; 2009 Acts, ch 179, §77  
Referred to in § 312.2, 312.4, 313.4, 384.56



**445.63 ABATEMENT OF TAXES.**

When taxes are owing against a parcel owned or claimed by the state or a political subdivision of this state and the taxes were owing before the parcel was acquired by the state or a political subdivision of this state, the county treasurer shall give notice to the appropriate governing body which shall pay the amount of the taxes due. If the governing body fails to immediately pay the taxes due, the board of supervisors shall abate all of the taxes.

**Section History: Recent Form**

87 Acts, ch 126, §1; 91 Acts, ch 191, §57



Report of Ownership and Liens (B-1)

Form 632004 (06-14)



I Order No.: \_\_\_\_\_
N Date: \_\_\_\_\_
D County: \_\_\_\_\_
E Project No.: \_\_\_\_\_
X Parcel or Tract No.: \_\_\_\_\_

1. This Report Is Prepared For A Tract Of Land Located In \_\_\_\_\_ County, Iowa, More Particularly Described As Follows:

2. Title To The Above-Described Tract(s) Is In

(REPORT AND ATTACH outstanding Purchase Contracts, Articles of Incorporation, etc.)

3. Title Was Acquired By \_\_\_\_\_ Recording Information \_\_\_\_\_ Date \_\_\_\_\_

4. The Following Additional Title Instruments And Proceedings Affect Title: (Include all transfers of title occurring within the past five years) Recording Information \_\_\_\_\_ Date \_\_\_\_\_

5. Zoning Information  None  \_\_\_\_\_

6. Restrictive Covenants  None

7. Easements, Leases, and Other Land Use Agreements  None

8. Mineral Reservations  None  \_\_\_\_\_

9. Title To This Tract(s) Is Also Subject To:

- A. Mortgages  None  \_\_\_\_\_
B. Judgements  None  \_\_\_\_\_
C. Financing Statements  None  \_\_\_\_\_
D. Taxes and Assessments  None  \_\_\_\_\_
E. All Other Liens  None  \_\_\_\_\_

Attach Copies Of All Instruments Listed In Items 3 Through 9 Inclusive

10. Certification - The Undersigned Hereby Certifies That Title To this Land Is As Reported And Shown In The Records Of \_\_\_\_\_ County, Iowa.

This Report Is A Report Of Liens Only. No Examination Is Made And No Opinion Has Been Formed As To The Legal Effect Of Any Instrument Or Proceeding Inspected. It Is Made For The Exclusive Information And Use Of The Iowa Department Of Transportation And The State Of Iowa And No Liability For Errors Or Omission Will Accrue To The Benefit Of Any Other Person, Firm, Or Corporation.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_M
At \_\_\_\_\_, County of \_\_\_\_\_, State of \_\_\_\_\_

Signed \_\_\_\_\_
Title \_\_\_\_\_
Address \_\_\_\_\_
Telephone Number \_\_\_\_\_





Office of Right of Way, Acquisition Section

Form 634060wd

**INFORMATION FOR CONDEMNATION PROCEEDINGS**

**County:** \_\_\_\_\_ **Project Number:** \_\_\_\_\_ **Parcel Number:** \_\_\_\_\_

Record Owner(s)	Address (include winter address, if applicable)	Type of Ownership (include dower)	Contacted (Yes or No)		Signed (Yes or No)	
			Yes	No	Yes	No
1.			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2.			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Tenant(s)	Address	Contacted (Yes or No)		Signed (Yes or No)	
		Yes	No	Yes	No
1.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Possessory interests claimed by :	Address	Type of interest
1.		
2.		

Is a residence being acquired?  Yes  No      If "Yes", is the residence:       Owner-occupied       Tenant-occupied

Name(s) of occupant(s) of land \_\_\_\_\_ Name(s) of occupant(s) of residence \_\_\_\_\_

Use of Property:  Business     Residential     Commercial     Agricultural     Other (explain) \_\_\_\_\_

Different from appraisal?    Yes     No     Includes:  Right-of-Way     Fence     Borrow  
 Damages     Access Control  
 Temporary Easement

Last Offer: \$ \_\_\_\_\_ Why? \_\_\_\_\_

Asking Amount \$ \_\_\_\_\_ Based on:  Owner's Appraisal     Other (explain) \_\_\_\_\_

Reason for Condemnation:  Title     Design     Access     Monetary     Other (explain) \_\_\_\_\_

Other known information, not shown in title documents or file: \_\_\_\_\_

Attorney or Agent-of-Record (specify, if Agent-of-Record) \_\_\_\_\_

Name \_\_\_\_\_ Street, City, State, Zip Code \_\_\_\_\_ Phone \_\_\_\_\_

**Instructions to Acquisition Secretary**

Hold condemnation letter and contract until \_\_\_\_\_  
 Mail condemnation letter and contract to:       Owner     Owner with copy to Attorney     Attorney only     Attorney with copy to Owner

Recommended by	Approved by
_____, Acquisition Agent      Date _____	Mark E. Holm, Acquisition Supervisor      Date _____
_____, Project Agent      Date _____	

Received by Condemnation Section      \_\_\_\_\_  
 Katie Johnson, Condemnation Coordinator      Date \_\_\_\_\_

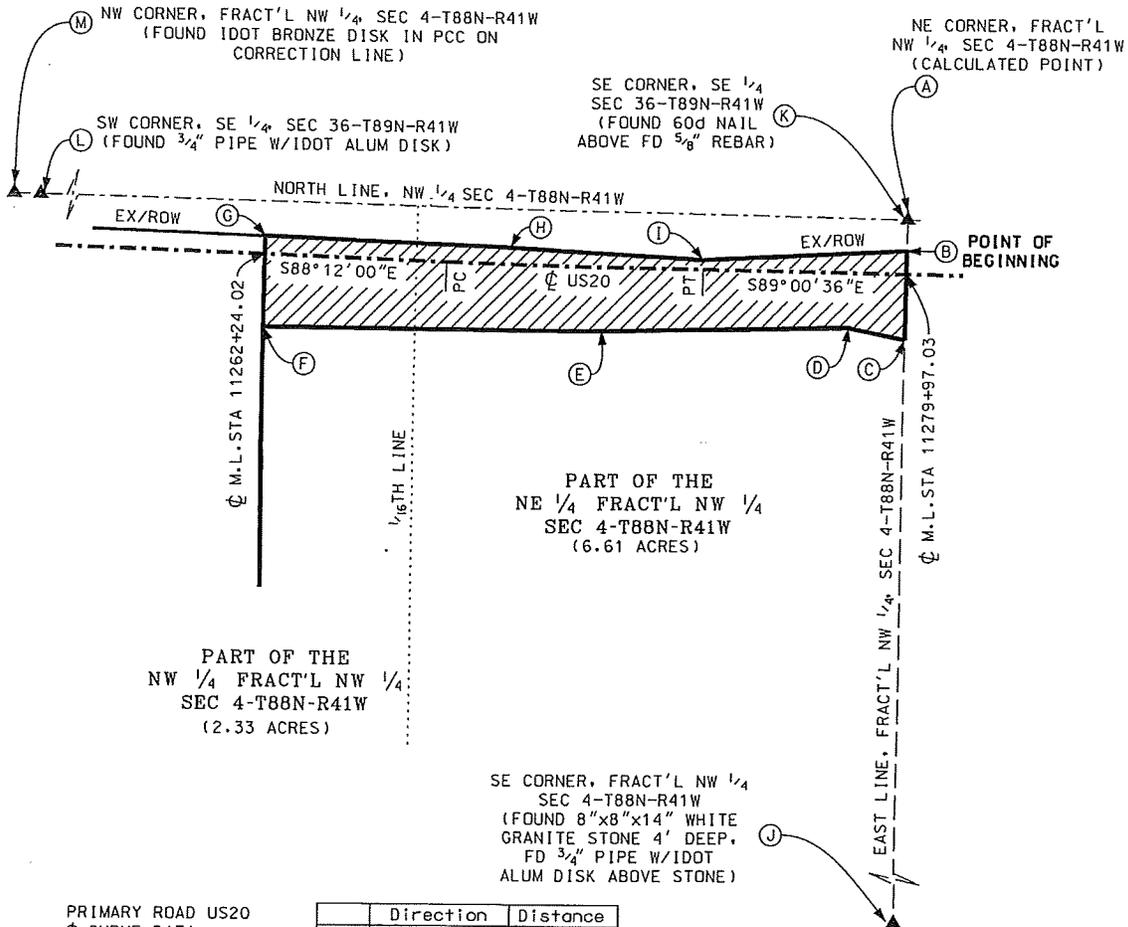


IOWA DEPARTMENT OF TRANSPORTATION  
ACQUISITION PLAT  
EXHIBIT "A"



COUNTY IDA STATE CONTROL NO. -  
 PROJECT NO. NHSN-020-2(112)--2R-47 PARCEL NO. 17~  
 SECTION 4 TOWNSHIP 88N RANGE 41W  
 ROW - FEE 8.94 ACRES EASE \_\_\_\_\_ QUIT CLAIM \_\_\_\_\_  
 ACQUIRED ACCESS RIGHTS FROM STA. \_\_\_\_\_ \* TO STA. \_\_\_\_\_ MAIN LINE \_\_\_\_\_ SIDE \_\_\_\_\_  
 ACQUIRED ACCESS RIGHTS FROM STA. \_\_\_\_\_ TO STA. \_\_\_\_\_ SIDE ROAD \_\_\_\_\_ SIDE \_\_\_\_\_  
 ACQUIRED FROM \_\_\_\_\_

\* ACCESS CONTROL WAS ACQUIRED BY WARRANT DEED FILED MAY 15, 1957 IN DEED BOOK 37 AT PAGE 504



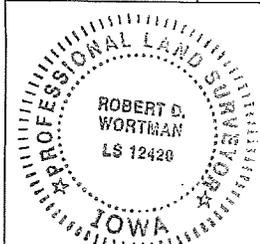
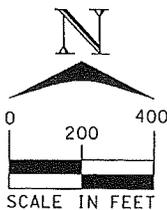
PART OF THE  
NW 1/4 FRACT'L NW 1/4  
SEC 4-T88N-R41W  
(2.33 ACRES)

PART OF THE  
NE 1/4 FRACT'L NW 1/4  
SEC 4-T88N-R41W  
(6.61 ACRES)

PRIMARY ROAD US20  
 CURVE DATA:  
 $\Delta = 00^\circ 48' 36''$  LT  
 T = 353.42'  
 L = 706.84'  
 R = 50000.00'  
 C =  $588^\circ 36' 18''$  E  
 706.83'  
 PC STA = 11267+27.23  
 PT STA = 11274+34.07

	Direction	Distance
A-B	S00°57'45"W	86.29'
POINT OF BEGINNING		
B-C	S00°57'45"W	245.02'
C-D	N78°12'01"W	159.96'
D-E	S88°57'03"W	681.39'
E-F	N89°51'02"W	933.28'
F-G	N00°29'04"E	249.78'
G-H	S87°57'40"E	679.88'
H-I	S86°36'54"E	529.77'
I-B	N87°09'39"E	565.53'
C-J	S00°57'45"W	3375.71'
A-K	N88°25'14"W	0.40'
K-L	N88°44'59"W	2636.25'
L-M	N88°34'48"W	72.60'

Pt#	Station	Offset
A	M.L.STA 11279+96.96	$\phi$ 151.31' LT
B	M.L.STA 11279+97.00	$\phi$ 65.02' LT
C	M.L.STA 11279+97.12	$\phi$ 180.00' RT
D	M.L.STA 11278+40.00	$\phi$ 150.00' RT
E	M.L.STA 11271+60.00	$\phi$ 175.00' RT
F	M.L.STA 11262+28.62	$\phi$ 200.00' RT
G	M.L.STA 11262+22.88	$\phi$ 49.72' LT
H	M.L.STA 11269+02.92	$\phi$ 46.57' LT
I	M.L.STA 11274+32.73	$\phi$ 27.25' LT
K	M.L.STA 11279+96.56	$\phi$ 151.31' LT
L	M.L.STA 11253+58.22	$\phi$ 138.95' LT
M	M.L.STA 11252+85.62	$\phi$ 138.47' LT



I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly licensed Professional Land Surveyor under the laws of the State of Iowa.

*Robert D. Wortman* 9-9-2015  
 Robert D. Wortman License No. 12420 Date

My license renewal date is December 31, 2015.

Pages or sheets covered by this seal: THIS SHEET ONLY

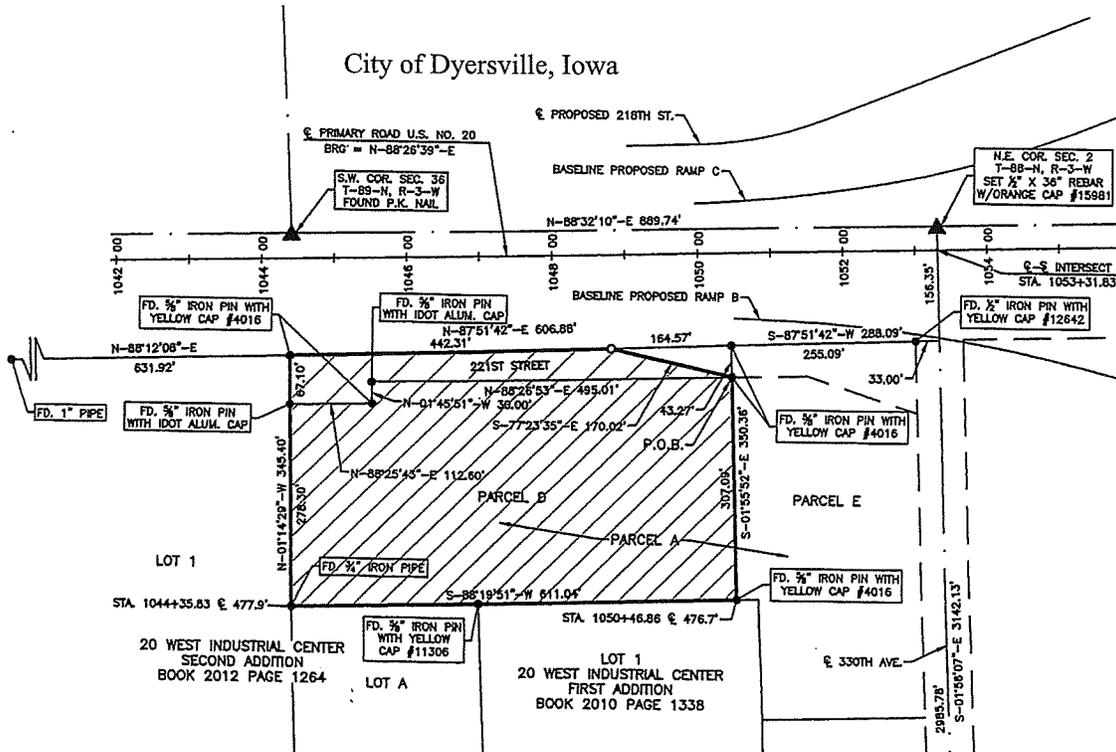
DATE DRAWN ALR 04/13/2015

IOWA DEPARTMENT OF TRANSPORTATION  
ACQUISITION PLAT  
EXHIBIT "A2"  
(uneconomical remnant)

COUNTY DELAWARE STATE CONTROL NO. \_\_\_\_\_  
PROJECT NO. NHSN-20-8(48)-2R-28 PARCEL NO. 2  
SECTION 2 TOWNSHIP 88-N RANGE 3-W  
ROW-FEE \_\_\_\_\_ AC, EASE \_\_\_\_\_ AC EXCESS-FEE 4.78\* AC  
ACCESS RIGHTS ACQUIRED - STA \_\_\_\_\_ STA \_\_\_\_\_ MAIN LINE \_\_\_\_\_ SIDE \_\_\_\_\_  
ACCESS RIGHTS ACQUIRED - STA \_\_\_\_\_ STA \_\_\_\_\_ SIDE ROAD \_\_\_\_\_ SIDE \_\_\_\_\_

ACQUIRED FROM Herbert P. Recker, et ux

\* INCLUDING 0.56 ACRES WITHIN THE PRESENTLY ESTABLISHED RIGHT OF WAY.



**LEGEND**

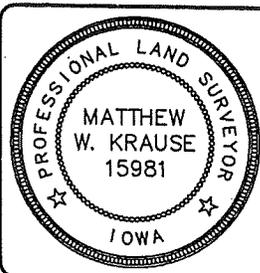
○ SET 1/2" X 3/8" REBAR WITH ORANGE CAP #15981  
▲ SECTION CORNER, AS NOTED  
● FOUND, AS NOTED

**AREA**

4.78 ACRES

**NOTES**

- EXISTING SOUTHERLY ROAD RIGHT OF WAY 221ST STREET RECORDED IN BOOK Y PAGE 24
- PLAT OF SURVEY OF PARCEL A RECORDED IN BOOK 7 PAGE 62
- PLAT OF SURVEY OF PARCEL D & PARCEL E RECORDED IN BOOK 2009 PAGE 2009



I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly licensed Land Surveyor under the laws of the State of Iowa.

*Matthew W. Krause* 2/28/14  
MATTHEW W. KRAUSE LICENSE NO. 15981 DATE  
My license renewal date is December 31, 2015.  
Pages or sheets covered by this set: 1 OF 1

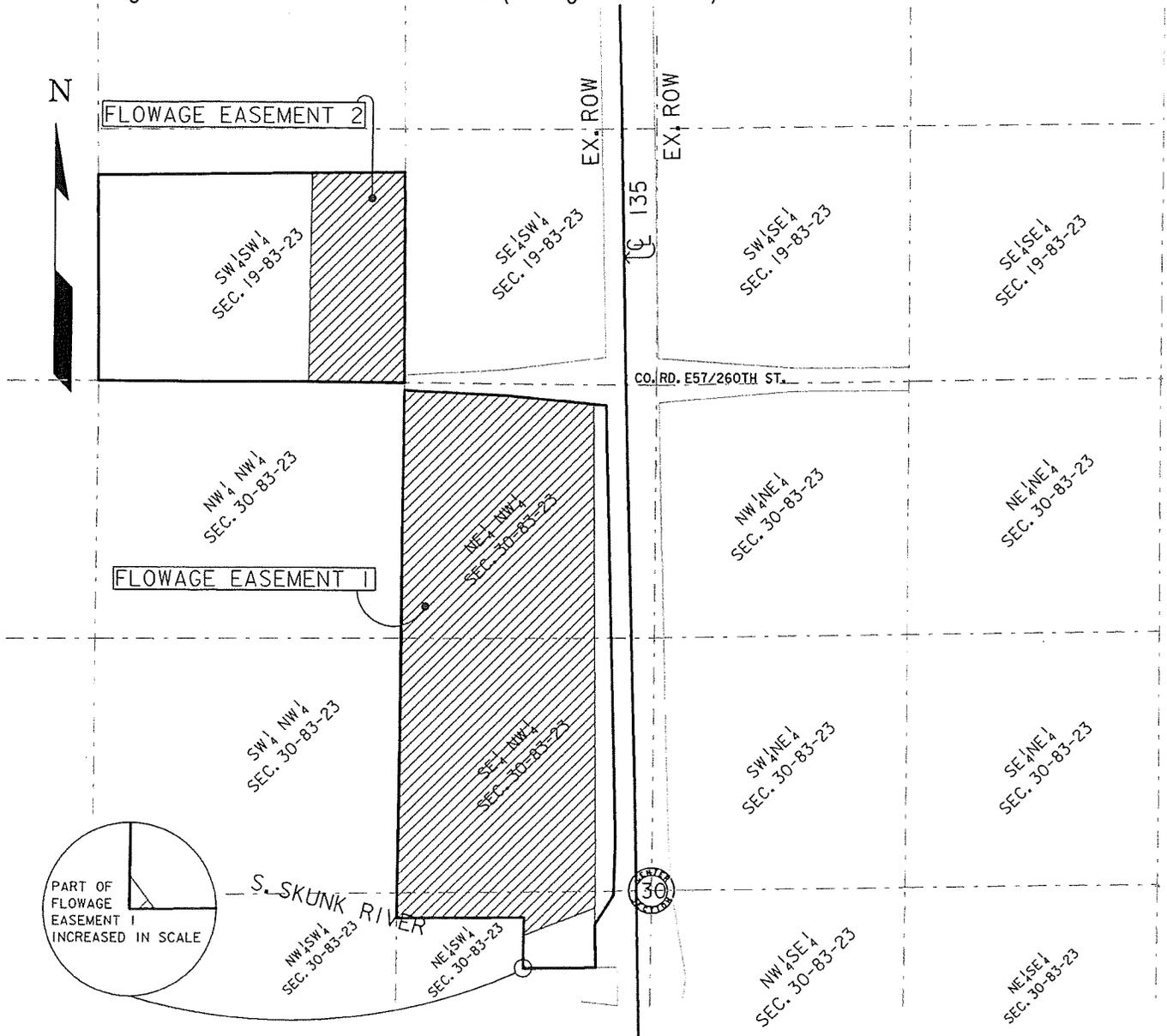
IOWA DEPARTMENT OF TRANSPORTATION  
GRAPHIC EXHIBIT "A"



COUNTY STORY STATE CONTROL NO. \_\_\_\_\_  
 PROJECT NO. IMN-35-4(172)09--0E-85 PARCEL NO. 7  
 SECTION 19 & 30 TOWNSHIP 83 RANGE 23  
 ROW-FEE \_\_\_\_\_ AC, EASE 75.38\* AC, BORROW \_\_\_\_\_ AC, EXCESS-FEE \_\_\_\_\_ AC  
 ACQUIRED ACCESS RIGHTS FROM STA. \_\_\_\_\_ TO STA. \_\_\_\_\_ MAIN LINE \_\_\_\_\_ SIDE \_\_\_\_\_  
 ACQUIRED ACCESS RIGHTS FROM STA. \_\_\_\_\_ TO STA. \_\_\_\_\_ SIDE ROAD \_\_\_\_\_ SIDE \_\_\_\_\_  
 ACQUIRED FROM Bradshaw Farms, L.P.

\*Flowage Easement to elevation of 871.6 feet (Flowage Easement 1) 63.11 ac.

\*Flowage Easement to elevation of 872.4 feet (Flowage Easement 2) 12.27 ac.



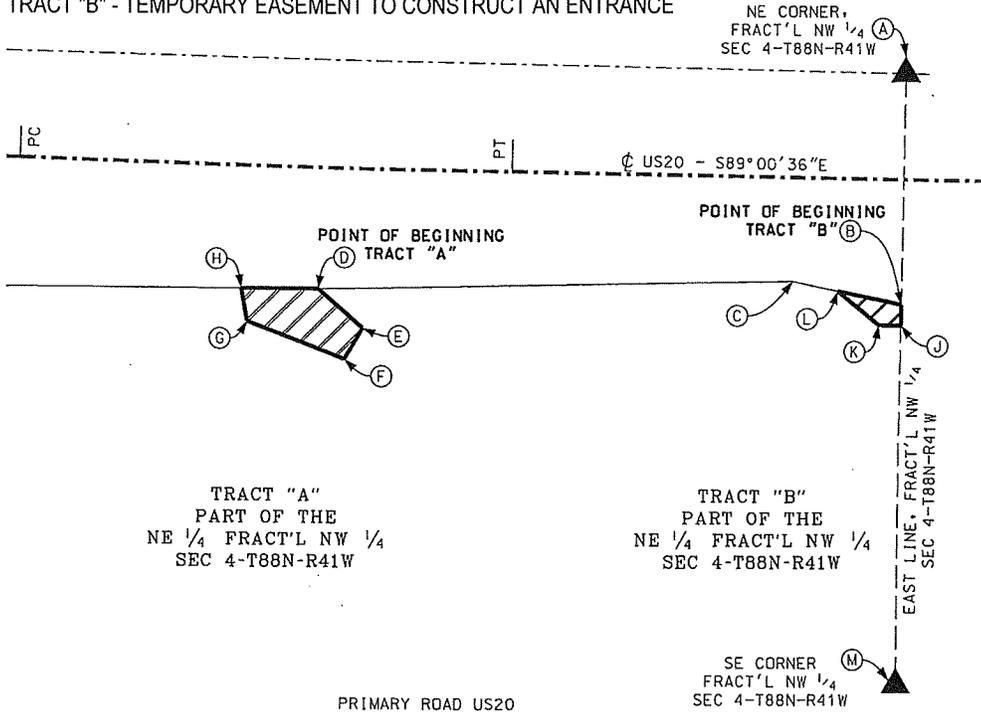


IOWA DEPARTMENT OF TRANSPORTATION  
GRAPHIC EXHIBIT "B"



COUNTY \_\_\_\_\_ IDA STATE CONTROL NO. \_\_\_\_\_  
 PROJECT NO. NHSN-020-2(112)--2R-47 PARCEL NO. 17  
 SECTION 4 TOWNSHIP 88 NORTH RANGE 41 WEST  
 ROW - FEE \_\_\_\_\_ TEMP EASE \_\_\_\_\_ TEMP EASE \_\_\_\_\_  
 ACQUIRED FROM BDF Land Company, LLC

TRACT "A" - TEMPORARY EASEMENT TO CONSTRUCT AN ENTRANCE  
 TRACT "B" - TEMPORARY EASEMENT TO CONSTRUCT AN ENTRANCE



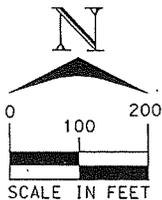
TRACT "A"  
PART OF THE  
NE 1/4 FRACT'L NW 1/4  
SEC 4-T88N-R41W

TRACT "B"  
PART OF THE  
NE 1/4 FRACT'L NW 1/4  
SEC 4-T88N-R41W

PRIMARY ROAD US20  
 CURVE DATA:  
 $\Delta = 00^\circ 48' 36''$  LT  
 T = 353.42'  
 L = 706.84'  
 R = 50000.00'  
 C =  $S88^\circ 36' 18''$ E  
 706.83'  
 PC STA = 11267+27.23  
 PT STA = 11274+34.07

	Direction	Distance
TRACT "A"		
A-B	S00°57'45"W	331.31'
B-C	N78°12'01"W	159.96'
C-D	S88°57'03"W	681.39'
POINT OF BEGINNING		
D-E	S48°36'40"E	85.35'
E-F	S30°25'16"W	51.54'
F-G	N69°05'53"W	149.32'
G-H	N10°28'24"W	48.70'
H-D	S89°51'02"E	110.41'
TRACT "B"		
A-B	S00°57'45"W	331.31'
POINT OF BEGINNING		
B-J	S00°57'45"W	30.00'
J-K	N89°00'36"W	32.14'
K-L	N50°35'25"W	76.58'
L-B	S78°12'01"E	93.78'
J-M	S00°57'45"W	3345.71'

Pt#	Station	Offset
A	M.L. STA 11279+96.96	$\phi$ 151.31' LT
B	M.L. STA 11279+97.12	$\phi$ 180.00' RT
C	M.L. STA 11278+40.00	$\phi$ 150.00' RT
D	M.L. STA 11271+60.00	$\phi$ 175.00' RT
E	M.L. STA 11272+25.00	$\phi$ 230.00' RT
F	M.L. STA 11272+00.00	$\phi$ 275.00' RT
G	M.L. STA 11270+60.00	$\phi$ 225.00' RT
H	M.L. STA 11270+50.00	$\phi$ 177.35' RT
J	M.L. STA 11279+97.14	$\phi$ 210.00' RT
K	M.L. STA 11279+65.00	$\phi$ 210.00' RT
L	M.L. STA 11279+05.00	$\phi$ 162.41' RT



In the Matter of the Condemnation of  
Certain Rights in Land  
by the Iowa Department of Transportation  
for the Improvement of

Interstate Route No. /Primary Road No. IA/U.S. xx

North/South/East/West of/ in the City of xx

located in xx County, Iowa

Project No. xx

Group "xx"

TO:

(INSERT TITLEHOLDER)(INSERT ADDRESS)  
(INSERT TITLEHOLDER)(INSERT ADDRESS)  
(INSERT SPOUSE) (INSERT ADDRESS)  
(INSERT TENANT) (INSERT ADDRESS)  
(INSERT MORTGAGE HOLDER) (INSERT ADDRESS)  
City of xx, Iowa, c/o City Clerk, (INSERT ADDRESS)  
xx County, Iowa, c/o County Auditor, (INSERT ADDRESS)

(fee)  
(fee)  
(spouse)  
(tenant)  
(mortgagee)  
(poss lien holder)  
(poss lien holder)

and to all other persons, companies or corporations having any interest in or owning any of the following described real estate: Part of xx

You, and each of you, are hereby notified that the State of Iowa (and xx, Iowa,) desire(s) certain rights in land more specifically described as follows and shown with reference to their location as to land affected on the Acquisition Plat Exhibit "A" (1 of 2) and (2 of 2) and Graphic Exhibit "B" (1 of 2) and (2 of 2) attached hereto and to the Application filed with the Chief Judge of the Judicial District containing xx County, Iowa, and in the Office of the Sheriff of xx County, Iowa, to which you are referred:

(FEE TAKING, if applicable:)

The title in fee simple sought to be appropriated (for the use and benefit of the State of Iowa,) (for the use and benefit of the City of xx, or xx County, Iowa,) is in land described as follows:

(INSERT LEGAL DESCRIPTION INTRO)

Said parcel is described as follows:

(INSERT LEGAL DESCRIPTION)

xx County Project No. xx  
name of titleholder(s), et al/et ux, et vir (Parcel xx)  
Continued on next page

xx County Project No. xx  
name of titleholder(s), et al/et ux, et vir (Parcel xx)

The title in fee simple sought to be appropriated (for the use and benefit of the City of xx, or xx County, Iowa,) is in land described as follows:

(INSERT LEGAL DESCRIPTION INTRO)

Said parcel is described as follows:

(INSERT LEGAL DESCRIPTION)

(ACCESS RIGHTS ACQUIRED, if applicable:)

The access rights in fee simple title sought to be appropriated, (for the use and benefit of the State of Iowa,) are described as follows:

(INSERT APPLICABLE ACCESS CONTROL CLAUSES)

(EASEMENT TAKING, if applicable:)

The easement for highway purposes (or INSERT PURPOSE) sought to be appropriated, (for the use and benefit of the State of Iowa,) (for the use and benefit of the City of xx, or xx County, Iowa,) is in land described as follows:

(INSERT LEGAL DESCRIPTION INTRO)

Said parcel is described as follows:

(INSERT LEGAL DESCRIPTION)

and,

The easement for highway purposes (or INSERT PURPOSE) sought to be appropriated, (for the use and benefit of the City of xx, or xx County, Iowa,) is in land described as follows:

(INSERT LEGAL DESCRIPTION INTRO)

Said parcel is described as follows:

(INSERT LEGAL DESCRIPTION)

In connection with this condemnation proceeding it is specifically provided as follows:

1. Any and all improvements, (including fences or agricultural crops, if any,) located wholly within the land sought (in fee simple title) (and/or by easement for highway purposes), are condemned in their entirety (, except as noted in Item 2 below).

xx County Project No. xx  
name of titleholder(s), et al/et ux, et vir (Parcel xx)

Continued on next page

xx County Project No. xx  
 name of titleholder(s), et al/et ux, et vir (Parcel xx)

Page 3

2. **If improvement on property is excepted or being relocated:** It is not the intent of the condemner to acquire (the on-premise advertising device/billboard/sign located at Sta. xx+xx on the xx side of Interstate Route No. /Primary Road No. IA/U.S. xx)(or building identification) (or fencing identification).
3. **If Temporary Easement:** The State of Iowa shall have a right of temporary easement in the xx ¼ of the xx ¼ of Section xx, Township xx North, Range xx West of the 5<sup>th</sup> P.M., xx County, Iowa, for the specific purpose of (insert purpose), in land described as follows and as shown on Graphic Exhibit "B" attached hereto and by reference made a part hereof:

(INSERT LEGAL DESCRIPTION)

**If TE for detour road or haul road, add:** Condemnor agrees that upon completion of its use, the detour/haul road will be removed and the temporary easement area shall be returned, insofar as possible by machine methods, to its original condition.

4. The State of Iowa will construct (an) entrance(s) at Sta. xx+xx on the xx side of Interstate Route No. /Primary Road No. IA/U.S. xx (and at Sta. xx+xx on the xx side of local road xx). The existing entrance(s) at Sta. xx+xx on the xx side of Interstate Route No. /Primary Road No. IA/U.S. xx (and at Sta. xx+xx on the xx side of local road xx) will be closed and the entrance(s) eliminated.
5. **If Ag/Rural Prop:** Any farm field drainage tile, or outlets, which are located within the land being acquired under this proceeding, and are damaged or destroyed by highway construction, shall be relocated, replaced or restored by the condemner and at no expense to the condemnee(s), and the State of Iowa shall have a right of temporary easement as necessary over condemnee's remaining property for the specific purpose of effecting such relocation, replacement or restoration.
6. The area(s) sought to be appropriated by temporary easement, for the specific purpose of (insert purpose) **if using the drainage tile clause:** (and for) (relocating, replacing, or restoring tile, if any,) is/are reserved to the condemnee(s) until the actual date said area(s) is/are required for construction of this highway improvement. Also, said temporary easement right(s) shall terminate immediately upon completion of the operations for which said right(s) is/are sought and in no event later than the completion of this highway improvement.
7. Condemner hereby gives notice of condemnee's five-year right to renegotiate construction or maintenance damages not apparent at the time of the condemnation as required by the Code of Iowa, Section 6B.52.

xx County Project No. xx  
 name of titleholder(s), et al/et ux, et vir (Parcel xx)

Page 3

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APPRAISAL INFORMATION, etc: 1. \$xx xx, Appraiser (Fee)/(Acquisition)

Appraisal/Compensation Estimate Reviewed By: xx

Amount Offered on Contract: \$xx

Amount Asked by Owner or Objections: xx

Taking: xx

(NON-)AGRICULTURAL land

House in Taking: NO Owner-Occupied: N/A

Processor's initials: xx

Saved on W: drive as: COUNTYROUTE PAREN-(initials) pcl xx draft notice

In the Matter of the Condemnation of  
Certain Rights in Land  
by the Iowa Department of Transportation  
for the Improvement of

Interstate Route No. /Primary Road No. IA/U.S. xx

North/South/East/West of/ in the City of xx

located in xx County, Iowa

Project No. xx

Group "xx"

TO:

(INSERT TITLEHOLDER)(INSERT ADDRESS)  
(INSERT TITLEHOLDER)(INSERT ADDRESS)  
(INSERT SPOUSE) (INSERT ADDRESS)  
(INSERT TENANT) (INSERT ADDRESS)  
(INSERT MORTGAGE HOLDER) (INSERT ADDRESS)

(fee)  
(fee)  
(spouse)  
(tenant)  
(mortgagee)

and to all other persons, companies or corporations having any interest in or owning any of the following described real estate: Part of xx

You, and each of you, are hereby notified that the State of Iowa desires certain rights in land more specifically described as follows and shown with reference to their location as to land affected on the Graphic Exhibit "B" (1 of 2) and (2 of 2) attached hereto and to the Application filed with the Chief Judge of the Judicial District containing xx County, Iowa, and in the Office of the Sheriff of xx County, Iowa, to which you are referred:

In connection with this condemnation proceeding it is specifically provided as follows:

1. The State of Iowa shall have a right of temporary easement in the xx ¼ of the xx ¼ of Section xx, Township xx North, Range xx West of the 5<sup>th</sup> P.M., xx County, Iowa, for the specific purpose of (insert purpose), in land described as follows and as shown on Graphic Exhibit "B" attached hereto and by reference made a part hereof:

(INSERT LEGAL DESCRIPTION)

If TE for detour road or haul road, add: Condemnor agrees that upon completion of its use, the detour/haul road will be removed and the temporary easement area shall be returned, insofar as possible by machine methods, to its original condition.

xx County Project No. xx  
name of titleholder(s), et al/et ux, et vir (Parcel xx)

Page 2

2. The State of Iowa will construct (an) entrance(s) at Sta. xx+xx on the xx side of Interstate Route No. /Primary Road No. IA/U.S. xx (and at Sta. xx+xx on the xx side of local road xx). The existing entrance(s) at Sta. xx+xx on the xx side of Interstate Route No. /Primary Road No. IA/U.S. xx (and at Sta. xx+xx on the xx side of local road xx) will be closed and the entrance(s) eliminated.
3. **If Ag/Rural Prop:** Any farm field drainage tile, or outlets, which are located within the land being acquired under this proceeding, and are damaged or destroyed by highway construction, shall be relocated, replaced or restored by the condemner and at no expense to the condemnee(s), and the State of Iowa shall have a right of temporary easement as necessary over condemnee's remaining property for the specific purpose of effecting such relocation, replacement or restoration.
4. The area(s) sought to be appropriated by temporary easement, for the specific purpose of (insert purpose) if using the drainage tile clause: (and for) (relocating, replacing, or restoring tile, if any,) is/are reserved to the condemnee(s) until the actual date said area(s) is/are required for construction of this highway improvement. Also, said temporary easement right(s) shall terminate immediately upon completion of the operations for which said right(s) is/are sought and in no event later than the completion of this highway improvement.
5. Condemner hereby gives notice of condemnee's five-year right to renegotiate construction or maintenance damages not apparent at the time of the condemnation as required by the Code of Iowa, Section 6B.52.

xx County Project No. xx  
name of titleholder(s), et al/et ux, et vir (Parcel xx)

Page 2

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APPRAISAL INFORMATION, etc: 1. \$xx xx, Appraiser (Fee)/(Acquisition)

Appraisal/Compensation Estimate Reviewed By: xx

Amount Offered on Contract: \$xx

Amount Asked by Owner or Objections: xx

Taking: xx

(NON-)AGRICULTURAL land

House in Taking: NO Owner-Occupied: N/A

Processor's initials: xx

Saved on W: drive as: COUNTYROUTEPAREN-(initials) pcl xx draft notice

In the Matter of the Condemnation of  
Certain Leasehold Rights in Land  
by the Iowa Department of Transportation  
for the Improvement of

Interstate Route No. /Primary Road No. IA/U.S. xx

North/South/East/West of/ in the City of xx

located in xx County, Iowa

Project No. xx

Group "xx"

TO:

(INSERT TENANT) (INSERT ADDRESS)  
(INSERT MORTGAGE HOLDER) (INSERT ADDRESS)

(tenant)  
(mortgagee)

and to all other persons, companies or corporations having any interest in or owning any of the following described real estate: Part of xx

You, and each of you, are hereby notified that the State of Iowa (and xx, Iowa,) desire(s) certain leasehold rights in land more specifically described as follows and shown with reference to their location as to land affected on the Acquisition Plat Exhibit "A" (1 of 2) and (2 of 2) and Graphic Exhibit "B" (1 of 2) and (2 of 2) attached hereto and to the Application filed with the Chief Judge of the Judicial District containing xx County, Iowa, and in the Office of the Sheriff of xx County, Iowa, to which you are referred:

(FEE TAKING, if applicable:)

The leasehold interest, if any, sought to be appropriated (for the use and benefit of the State of Iowa,) (for the use and benefit of the City of xx, or xx County, Iowa,) is in land described as follows:

(INSERT LEGAL DESCRIPTION INTRO)

Said parcel is described as follows:

(INSERT LEGAL DESCRIPTION)

and,

The leasehold interest, if any, sought to be appropriated (for the use and benefit of the City of xx, or xx County, Iowa,) is in land described as follows:

(INSERT LEGAL DESCRIPTION INTRO)

xx County Project No. xx  
name of tenant(s), et al/et ux, et vir (Parcel xx)  
Continued on next page

xx County Project No. xx  
name of tenant(s), et al/et ux, et vir (Parcel xx)

Said parcel is described as follows:

(INSERT LEGAL DESCRIPTION)

(ACCESS RIGHTS ACQUIRED, if applicable:)

The access rights in fee simple title sought to be appropriated, (for the use and benefit of the State of Iowa,) are described as follows:

(INSERT APPLICABLE ACCESS CONTROL CLAUSES)

(EASEMENT TAKING, if applicable:)

The leasehold interest, if any, in an easement for highway purposes (or INSERT PURPOSE) sought to be appropriated (for the use and benefit of the State of Iowa,) (for the use and benefit of the City of xx, or xx County, Iowa,) is in land described as follows:

(INSERT LEGAL DESCRIPTION INTRO)

Said parcel is described as follows:

(INSERT LEGAL DESCRIPTION)

and,

The leasehold interest, if any, in an easement for highway purposes (or INSERT PURPOSE) sought to be appropriated, (for the use and benefit of the State of Iowa,) (for the use and benefit of the City of xx, or xx County, Iowa,) is in land described as follows:

(INSERT LEGAL DESCRIPTION INTRO)

Said parcel is described as follows:

(INSERT LEGAL DESCRIPTION)

In connection with this condemnation proceeding it is specifically provided as follows:

1. If improvement on property is excepted or being relocated: It is not the intent of the condemner to acquire (the on-premise advertising device/billboard/sign located at Sta. xx+xx on the xx side of Interstate Route No. /Primary Road No. IA/U.S. xx)(or building identification) (or fencing identification).

xx County Project No. xx  
name of tenant(s), et al/et ux, et vir (Parcel xx)

Continued on next page

xx County Project No. xx  
 name of titleholder(s), et al/et ux, et vir (Parcel xx)

Page 3

2. **If Temporary Easement:** The State of Iowa shall have a right of temporary easement in the xx ¼ of the xx ¼ of Section xx, Township xx North, Range xx West of the 5<sup>th</sup> P.M., xx County, Iowa, for the specific purpose of (insert purpose), in land described as follows and as shown on Graphic Exhibit "B" attached hereto and by reference made a part hereof:

(INSERT LEGAL DESCRIPTION)

**If TE for detour road or haul road, add:** Condemnor agrees that upon completion of its use, the detour/haul road will be removed and the temporary easement area shall be returned, insofar as possible by machine methods, to its original condition.

3. The State of Iowa will construct (an) entrance(s) at Sta. xx+xx on the xx side of Interstate Route No. /Primary Road No. IA/U.S. xx (and at Sta. xx+xx on the xx side of local road xx). The existing entrance(s) at Sta. xx+xx on the xx side of Interstate Route No. /Primary Road No. IA/U.S. xx (and at Sta. xx+xx on the xx side of local road xx) will be closed and the entrance(s) eliminated.
4. **If Ag/Rural Prop:** Any farm field drainage tile, or outlets, which are located within the land being acquired under this proceeding, and are damaged or destroyed by highway construction, shall be relocated, replaced or restored by the condemner and at no expense to the condemnee(s), and the State of Iowa shall have a right of temporary easement as necessary over condemnee's remaining property for the specific purpose of effecting such relocation, replacement or restoration.
5. The area(s) sought to be appropriated by temporary easement, for the specific purpose of (insert purpose) **if using the drainage tile clause:** (and for) (relocating, replacing, or restoring tile, if any,) is/are reserved to the condemnee(s) until the actual date said area(s) is/are required for construction of this highway improvement. Also, said temporary easement right(s) shall terminate immediately upon completion of the operations for which said right(s) is/are sought and in no event later than the completion of this highway improvement.
6. It is the intent of the condemner to acquire only the leasehold rights, if any, of the condemnee(s) in the above described temporary easement(s) to (insert purpose).
7. Condemner hereby gives notice of condemnee's five-year right to renegotiate construction or maintenance damages not apparent at the time of the condemnation as required by the Code of Iowa, Section 6B.52.

xx County Project No. xx  
 name of titleholder(s), et al/et ux, et vir (Parcel xx)

Page 3

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APPRAISAL INFORMATION, etc: 1. \$xx xx, Appraiser (Fee)/(Acquisition)

Appraisal/Compensation Estimate Reviewed By: xx

Amount Offered on Contract: \$xx

Amount Asked by Owner or Objections: xx

Taking: xx

(NON-)AGRICULTURAL land

House in Taking: NO Owner-Occupied: N/A

Processor's initials: xx

Saved on W: drive as: COUNTYROUTEPAREN-(initials) pcl xx draft notice

In the Matter of the Condemnation of  
Certain Rights in Land  
by the Iowa Department of Transportation  
for the Improvement of

Interstate Route No. /Primary Road No. IA/U.S. xx

North/South/East/West of/ in the City of xx

located in xx County, Iowa

Project No. xx

Group "xx"

TO:

(INSERT TITLEHOLDER)(INSERT ADDRESS)  
(INSERT TITLEHOLDER)(INSERT ADDRESS)  
(INSERT SPOUSE) (INSERT ADDRESS)  
(INSERT TENANT) (INSERT ADDRESS)  
(INSERT MORTGAGE HOLDER) (INSERT ADDRESS)  
City of xx, Iowa, c/o City Clerk, (INSERT ADDRESS)  
xx County, Iowa, c/o County Auditor, (INSERT ADDRESS)

(fee)  
(fee)  
(spouse)  
(tenant)  
(mortgagee)  
(poss lien holder)  
(poss lien holder)

and to all other persons, companies or corporations having any interest in or owning any of the following described real estate: Part of xx

You, and each of you, are hereby notified that the State of Iowa (and xx, Iowa,) desire(s) certain rights in land more specifically described as follows and shown with reference to their location as to land affected on the Graphic Exhibit "A" attached hereto and to the Application filed with the Chief Judge of the Judicial District containing xx County, Iowa, and in the Office of the Sheriff of xx County, Iowa, to which you are referred:

The access rights in fee simple title sought to be appropriated are described as follows:

(INSERT APPLICABLE ACCESS CONTROL CLAUSES)

Condemnee's property is described as follows:

(TYPE ENTIRE PROPERTY DESCRIPTION)

It is the intent of the condemnor to acquire only the access rights in the above described premises.

---

APPRAISAL INFORMATION, etc: 1. \$xx xx, Appraiser (Fee)/(Acquisition)

Appraisal/Compensation Estimate Reviewed By: xx

Amount Offered on Contract: \$xx

Amount Asked by Owner or Objections: xx

Taking: xx

(NON-)AGRICULTURAL land

House in Taking: NO Owner-Occupied: N/A

Processor's initials: xx

Saved on W: drive as: COUNTYROUTE PAREN-(initials) pcl xx draft notice

In the Matter of the Condemnation of  
Certain Rights in an Advertising Device  
by the Iowa Department of Transportation  
for the Improvement of

Interstate Route No. /Primary Road No. IA/U.S. xx

North/South/East/West of/ in the City of xx

located in xx County, Iowa

Project No. xx

Group "xx"

TO:

(INSERT SIGN OWNER) (INSERT ADDRESS)  
City of xx, Iowa, c/o City Clerk, (INSERT ADDRESS)  
xx County, Iowa, c/o County Auditor, (INSERT ADDRESS)

(sign owner)  
(poss lien holder)  
(poss lien holder)

and to all other persons, companies or corporations having any interest in or owning the (sign description)  
advertising device located on the following described real estate: Part of xx

You, and each of you, are hereby notified that the State of Iowa desires certain rights in the (sign description)  
advertising device more specifically described as follows and shown with reference to its location as to land  
affected on the Acquisition Plat Exhibit "A" (1 of 2) and (2 of 2) attached hereto and to the Application filed  
with the Chief Judge of the Judicial District containing xx County, Iowa, and in the Office of the Sheriff of xx  
County, Iowa, to which you are referred:

The (sign description) advertising device sought to be appropriated is on land described as follows:

(INSERT LEGAL DESCRIPTION INTRO)

Said parcel is described as follows:

(INSERT LEGAL DESCRIPTION)

It is the intent of the condemner to acquire the (sign description) advertising device, (Permit Number xx) lying  
wholly within the above described area.

xx County Project No. xx  
name of titleholder(s), et al/et ux, et vir (Parcel xx)

---

APPRAISAL INFORMATION, etc: 1. \$xx xx, Appraiser (Fee)/(Acquisition)

Appraisal/Compensation Estimate Reviewed By: xx

Amount Offered on Contract: \$xx

Amount Asked by Owner or Objections: xx

Taking: xx

(NON-)AGRICULTURAL land

House in Taking: NO Owner-Occupied: N/A

Processor's initials: xx

Saved on W: drive as: COUNTYROUTE PAREN-(initials) pcl xx draft notice

In the Matter of the Condemnation of  
Certain Rights in Land  
by the Iowa Department of Transportation  
for the Improvement of

Interstate Route No. /Primary Road No. IA/U.S. xx

North/South/East/West of/ in the City of xx

located in xx County, Iowa

Project No. xx

Group "xx"

TO:

(INSERT TITLEHOLDER)(INSERT ADDRESS)  
(INSERT TITLEHOLDER)(INSERT ADDRESS)  
(INSERT SPOUSE) (INSERT ADDRESS)  
(INSERT TENANT) (INSERT ADDRESS)  
(INSERT MORTGAGE HOLDER) (INSERT ADDRESS)  
City of xx, Iowa, c/o City Clerk, (INSERT ADDRESS)  
xx County, Iowa, c/o County Auditor, (INSERT ADDRESS)

(fee)  
(fee)  
(spouse)  
(tenant)  
(mortgagee)  
(poss lien holder)  
(poss lien holder)

and to all other persons, companies or corporations having any interest in or owning any of the following described real estate: Part of xx

You, and each of you, are hereby notified that the State of Iowa desires certain rights in land more specifically described as follows and shown with reference to their location as to land affected on the Graphic Exhibit "A" attached hereto and to the Application filed with the Chief Judge of the Judicial District containing xx County, Iowa, and in the Office of the Sheriff of xx County, Iowa, to which you are referred:

The title in fee simple sought to be appropriated is in land described as follows and as shown on Graphic Exhibit "A" attached hereto and by reference made a part hereof:

(INSERT LEGAL DESCRIPTION)

In connection with this condemnation proceeding it is specifically provided that any and all improvements, (including fences or agricultural crops, if any,) located wholly within the land sought in fee simple title are condemned in their entirety.

xx County Project No. xx  
name of titleholder(s), et al/et ux, et vir (Parcel xx)

---

APPRAISAL INFORMATION, etc: 1. \$xx xx, Appraiser (Fee)/(Acquisition)

Appraisal/Compensation Estimate Reviewed By: xx

Amount Offered on Contract: \$xx

Amount Asked by Owner or Objections: xx

Taking: xx

(NON-)AGRICULTURAL land

House in Taking: NO Owner-Occupied: N/A

Processor's initials: xx

Saved on W: drive as: COUNTYROUTEPAREN-(initials) pcl xx draft notice

In the Matter of the Condemnation of  
Certain Rights in Land  
by the Iowa Department of Transportation  
for the Improvement of

Primary Road No. U.S. 218

NOTICE

South of the City of Janesville

located in Black Hawk County, Iowa

Project No. NHSN-218-7(189)--2R-07

Group "E"

TO:

Bonnie L. Rogers, also known as Bonnie Rogers, 8326 Waverly Road, Cedar Falls, Iowa 50613  
Security State Bank, 104 N. Cherry, Shell Rock, Iowa 50670  
Matthew Christopher, 8310 Waverly Road, Cedar Falls, Iowa 50613  
Black Hawk County, Iowa, c/o County Auditor, 316 E. 5<sup>th</sup> Street, Waterloo, Iowa 50703

and to all other persons, companies or corporations having any interest in or owning any of the following described real estate: Part of the Northeast Quarter (NE<sup>1</sup>/<sub>4</sub>) of the Southwest Quarter (SW<sup>1</sup>/<sub>4</sub>), the Southeast Quarter (SE<sup>1</sup>/<sub>4</sub>) of the Northwest Quarter (NW<sup>1</sup>/<sub>4</sub>), the Northeast Quarter (NE<sup>1</sup>/<sub>4</sub>) of the Northwest Quarter (NW<sup>1</sup>/<sub>4</sub>) and the Northwest Quarter (NW<sup>1</sup>/<sub>4</sub>) of the Southeast Quarter (SE<sup>1</sup>/<sub>4</sub>) of Section 12, Township 90 North, Range 14 West of the 5<sup>th</sup> P.M., Black Hawk County, Iowa.

You, and each of you, are hereby notified that the State of Iowa desires certain rights in land more specifically described as follows and shown with reference to their location as to land affected on the Acquisition Plats Exhibit "A" Plat 1 of 2 and Plat 2 of 2 attached hereto and to the Application filed with the Chief Judge of the Judicial District containing Black Hawk County, Iowa, and in the Office of the Sheriff of Black Hawk County, Iowa, to which you are referred:

The title in fee simple sought to be appropriated is in land described as follows:

A parcel of land located in part of the Northeast Quarter (NE<sup>1</sup>/<sub>4</sub>) of the Southwest Quarter (SW<sup>1</sup>/<sub>4</sub>) and in part of the Southeast Quarter (SE<sup>1</sup>/<sub>4</sub>) of the Northwest Quarter (NW<sup>1</sup>/<sub>4</sub>) of Section 12, Township 90 North, Range 14 West of the 5<sup>th</sup> P.M., Black Hawk County, Iowa as shown on Acquisition Plat Exhibit "A", Plat 1 of 2, attached hereto and by reference made a part hereof.

Said parcel is described as follows:

Black Hawk County Project No. NHSN-218-7(189)--2R-07  
Bonnie L. Rogers (Parcel 14)  
*Continued on next page*

Black Hawk County Project No. NHSN-218-7(189)--2R-07  
Bonnie L. Rogers (Parcel 14)

Page 2

Commencing at the Center of said Section 12; thence S88°42'56"W 354.38 feet along the North line of the Southwest Quarter (SW¼) of said Section 12 to the existing Westerly right of way line of the Cedar River Railroad Company and the Point of Beginning; thence S15°33'39"E 1375.41 feet along said Westerly right of way line to the South line of the North Half (N½) of the Southwest Quarter (SW¼) of said Section 12; thence S88°58'22"W 493.42 feet along said South line; thence Northerly 477.45 feet along a 5779.65 foot radius curve, concave Easterly and having a Chord Bearing of N01°29'54"W 477.31 feet; thence N01°06'05"E 70.31 feet; thence N01°13'06"E 311.41 feet; thence N01°06'07"E 69.70 feet; thence Northerly 1586.92 feet along a 5679.65 foot radius curve, concave Westerly and having a Chord Bearing N07°08'10"W 1581.76 feet to the existing Westerly right of way line of the Cedar River Railroad Company; thence S15°33'15"E 1208.39 feet along said Westerly right of way line to the Point of Beginning. Said parcel contains 10.94 acres.

And,

A parcel of land located in part of the Northeast Quarter (NE¼) of the Southwest Quarter (SW¼); in part of the Southeast Quarter (SE¼) of the Northwest Quarter (NW¼); in part of the Northeast Quarter (NE¼) of the Northwest Quarter (NW¼) and in part of the Northwest Quarter (NW¼) of the Southeast Quarter (SE¼) of Section 12, Township 90 North, Range 14 West of the 5<sup>th</sup> P.M., Black Hawk County, Iowa as shown on Acquisition Plat Exhibit "A", Plat 2 of 2, attached hereto and by reference made a part hereof.

Said parcel is described as follows:

Commencing at the North Quarter (N¼) Corner of said Section 12; thence S88°51'54"W 952.74 feet along the North line of the Northwest Quarter (NW¼) of said Section 12 to the existing Easterly right of way line of the Cedar River Railroad Company, the Point of Beginning; thence S15°33'15"E 2716.54 feet along said Easterly right of way line; thence continuing along said existing Easterly right of way line, S15°34'10"E 1375.14 feet to the South line of the North Half (N½) of the Southeast Quarter (SE¼) of said Section 12; thence S88°31'48"W 100.92 feet along said South line to the South line of the North Half (N½) of the Southwest Quarter (SW¼) of said Section 12; thence S88°58'22"W 2.40 feet along said South line to the Existing Westerly right of way line of the Cedar River Railroad Company; thence N15°33'39"W 1375.41 feet along said existing Westerly right of way line; thence continuing along said existing Westerly right of way line, N15°33'15"W 2716.82 feet to the North line of the Northwest Quarter (NW¼) of said Section 12; thence N88°51'54"E 103.25 feet along said North line to the Point of Beginning. Said parcel contains 9.40 acres.

The access rights in fee simple title sought to be appropriated are described as follows:

The access point located at Sta. 64+57±, now identified as Sta. 64+62± (W. Gresham Road), on the west side of Primary Road No. U.S. 218, reserved in a certain Warranty Deed executed by Bonnie L. Rogers on December 11, 1990, and recorded in the public records of Black Hawk County, Iowa, on January 8, 1991, at Book 558 of Land Deeds on Page 467 is hereby condemned and the access point/entrance is eliminated.

Black Hawk County Project No. NHSN-218-7(189)--2R-07  
Bonnie L. Rogers (Parcel 14)  
Continued on next page

Page 2

Black Hawk County Project No. NHSN-218-7(189)--2R-07  
Bonnie L. Rogers (Parcel 14)

Page 3

In connection with this condemnation proceeding it is specifically provided as follows:

1. Any and all improvements, including fences or agricultural crops, if any, located wholly within the land sought in fee simple title, are condemned in their entirety.
2. Any farm field drainage tile, or outlets, which are located within the land being acquired under this proceeding, and are damaged or destroyed by highway construction, shall be relocated, replaced or restored by the condemner and at no expense to the condemnee, and the State of Iowa shall have a right of temporary easement as necessary over condemnee's remaining property for the specific purpose of effecting such relocation, replacement or restoration.
3. The area sought to be appropriated by temporary easement, for the specific purpose of relocating, replacing, or restoring tile, if any, is reserved to the condemnee until the actual date said area is required for construction of this highway improvement. Also, said temporary easement right shall terminate immediately upon completion of the operations for which said right is sought and in no event later than the completion of this highway improvement.
4. Condemner hereby gives notice of condemnee's five-year right to renegotiate construction or maintenance damages not apparent at the time of the condemnation as required by the Code of Iowa, Section 6B.52.

Black Hawk County Project No. NHSN-218-7(189)--2R-07  
Bonnie L. Rogers (Parcel 14)

Page 3

FORM 634-077  
6-75

IOWA DEPARTMENT OF TRANSPORTATION  
ACQUISITION PLAT  
EXHIBIT "A" PLAT 1 OF 2



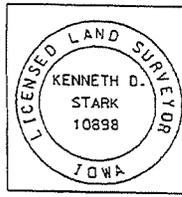
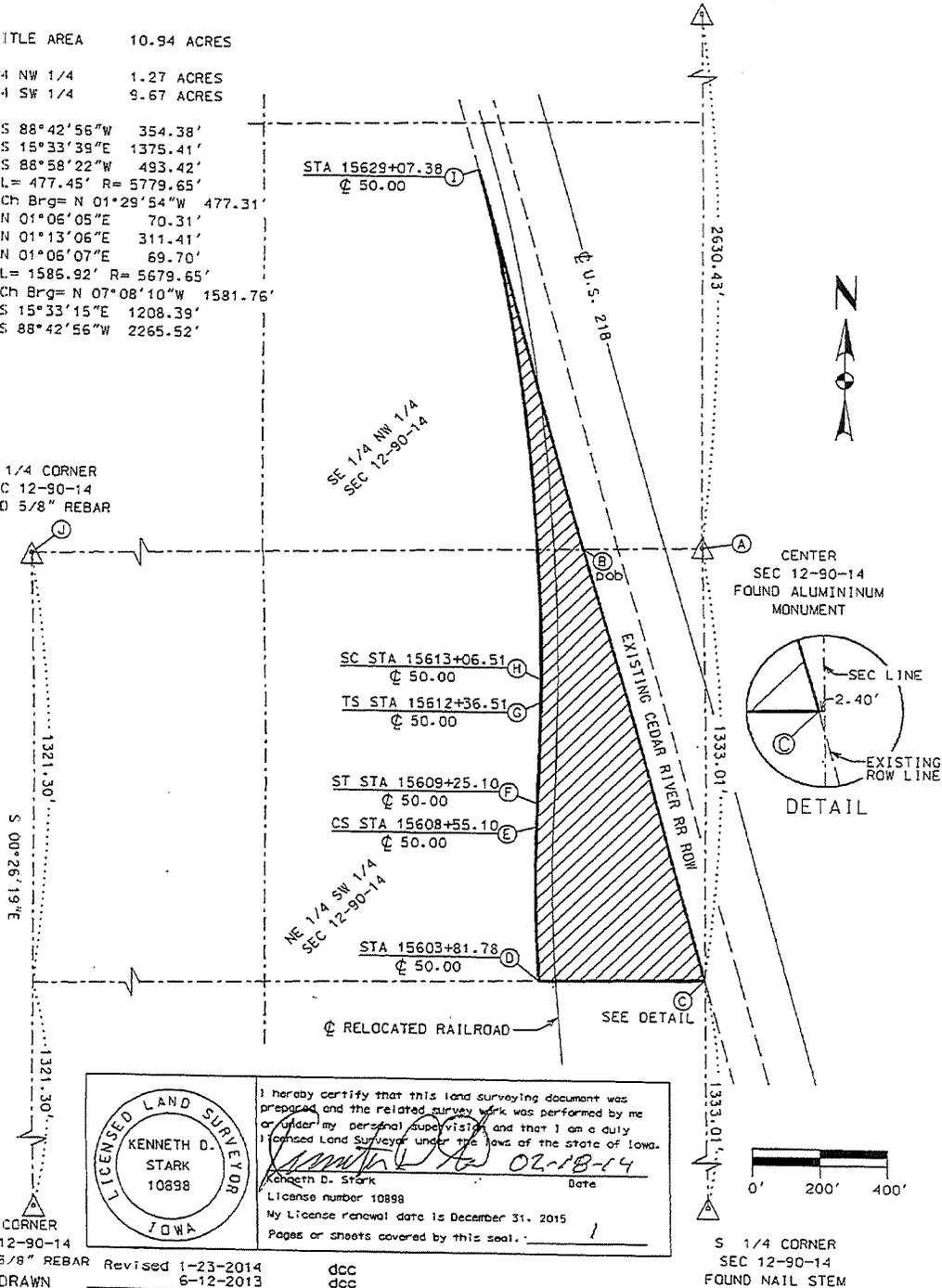
COUNTY BLACK HAWK STATE CONTROL NO. \_\_\_\_\_  
 PROJECT NO. NHSN-218-7(189)-2R-07 PARCEL NO. 14  
 SECTION 12 TOWNSHIP 90 N RANGE 14 W  
 ROW - FEE 10.94 AC. EASE \_\_\_\_\_ AC. EXCESS - FEE \_\_\_\_\_ AC  
 ACQUIRED ACCESS RIGHTS FROM STA. \_\_\_\_\_ TO STA. \_\_\_\_\_ MAIN LINE \_\_\_\_\_ SIDE \_\_\_\_\_  
 ACQUIRED ACCESS RIGHTS FROM STA. \_\_\_\_\_ TO STA. \_\_\_\_\_ SIDE ROAD \_\_\_\_\_ SIDE \_\_\_\_\_  
 ACQUIRED FROM BONNIE L. ROGERS

FEE TITLE AREA 10.94 ACRES  
 SE 1/4 NW 1/4 1.27 ACRES  
 NE 1/4 SW 1/4 9.67 ACRES

A-B S 88°42'56"W 354.38'  
 B-C S 15°33'39"E 1375.41'  
 C-D S 88°58'22"W 493.42'  
 D-E L= 477.45' R= 5779.65'  
 Ch Brg= N 01°29'54"W 477.31'  
 E-F N 01°06'05"E 70.31'  
 F-G N 01°13'06"E 311.41'  
 G-H N 01°06'07"E 69.70'  
 H-I L= 1586.92' R= 5679.65'  
 Ch Brg= N 07°08'10"W 1581.76'  
 I-B S 15°33'15"E 1208.39'  
 B-J S 88°42'56"W 2265.52'

W 1/4 CORNER  
 SEC 12-90-14  
 FOUND 5/8" REBAR

N 1/4 CORNER  
 SEC 12-90-14  
 FOUND 1/2" REBAR



I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my personal supervision and that I am a duly Licensed Land Surveyor under the laws of the state of Iowa.  
 Kenneth D. Stark Date 02-18-14  
 License number 10898  
 My License renewal date is December 31, 2015  
 Pages or sheets covered by this seal: 1

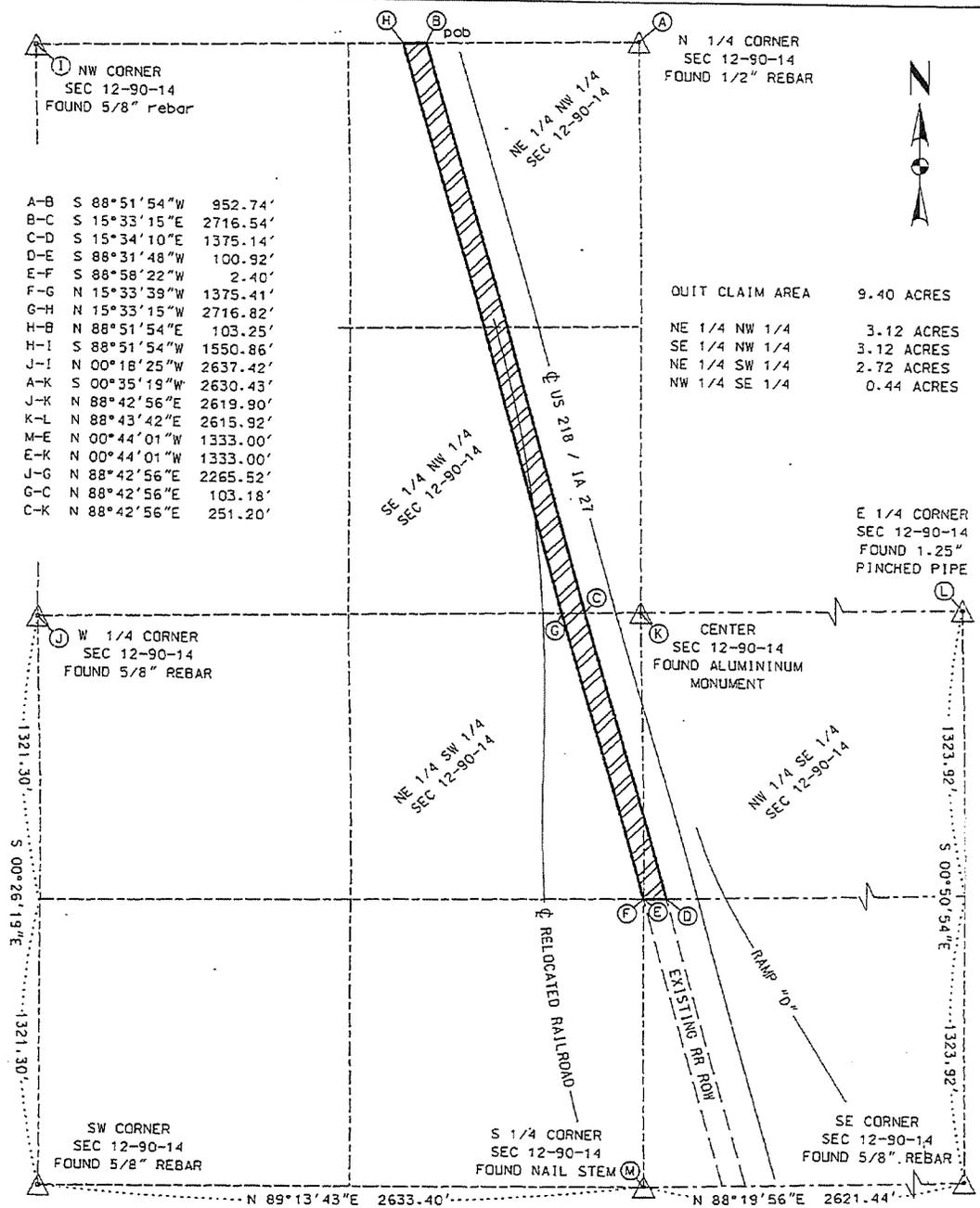
Revised 1-23-2014 dcc  
 6-12-2013 dcc  
 DATE DRAWN

S 1/4 CORNER  
 SEC 12-90-14  
 FOUND NAIL STEM

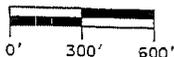
IOWA DEPARTMENT OF TRANSPORTATION  
ACQUISITION PLAT  
EXHIBIT "A" PLAT 2 OF 2



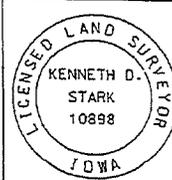
COUNTY BLACK HAWK STATE CONTROL NO. \_\_\_\_\_  
 PROJECT NO. NHSN-218-7(189)-2R-07 PARCEL NO. 14  
 SECTION 12 TOWNSHIP 90 N RANGE 14 W  
 ROW - FEE 9.40 AC. EASE \_\_\_\_\_ AC. EXCESS - FEE \_\_\_\_\_ AC  
 ACQUIRED ACCESS RIGHTS FROM STA. \_\_\_\_\_ TO STA. \_\_\_\_\_ MAIN LINE \_\_\_\_\_ SIDE  
 ACQUIRED ACCESS RIGHTS FROM STA. \_\_\_\_\_ TO STA. \_\_\_\_\_ SIDE ROAD \_\_\_\_\_ SIDE  
 ACQUIRED FROM BONNIE L. ROGERS



ENGLISH



DATE DRAWN 2-05-2014 dcc



I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my personal supervision and that I am a duly Licensed Land Surveyor under the laws of the state of Iowa.

*Kenneth D. Stark* Date 02-18-14  
 Kenneth D. Stark  
 License number 10898  
 My License renewal date is December 31, 2015  
 Pages or sheets covered by this seal. 1

**PROPERTY SHEET**

**Black Hawk County**  
Project No. **NHSN-218-7(189)--2R-07**  
Group "A"

Property Owner(s)

Tenant(s)

Lienholder(s)

**PARCEL 3B:**

Gloria A. Dayton

US Bank, National Association,  
ND  
4325 17<sup>th</sup> Avenue SW  
Fargo, ND 58103

Black Hawk County Auditor  
316 E. 5<sup>th</sup> Street  
Waterloo, IA 50703





[www.iowadot.gov](http://www.iowadot.gov)

**Office of Right of Way**  
800 Lincoln Way | Ames, IA 50010  
Phone: 515-239-1273 | Fax: 515-239-1247  
Email: [cheryl.watson@dot.iowa.gov](mailto:cheryl.watson@dot.iowa.gov)

July 1, 2014

**When corresponding, refer to:**  
Black Hawk County Condemnation  
NHSN-218-7(189)--2R-07  
Group "A"

The Honorable Kellyann M. Lekar  
Chief Judge, 1st Judicial District  
Black Hawk County Courthouse  
316 E. 5h Street  
Waterloo, IA 50703

Dear Judge Lekar:

Enclosed is an original and a duplicate each of (1) an Application to the Chief Judge of the 1st Judicial District for the Appointment of a Commission to Appraise Damages, (2) Selection and Appointment of a Compensation Commission, and (3) Supplementary Order Appointing Alternate Compensation Commissioners. Please return the originals to this office and retain the duplicates in your office.

We will forward a "Certified True Copy" of the Application and originals of the Selection and Appointment of a Compensation Commission and the Supplementary Order Appointing Alternate Compensation Commissioners to the Sheriff, who will summon the original six appointees. If any of the original six appointees are unable to serve, the Sheriff will contact an alternate compensation commissioner with the same qualification. We will request substitution from you in the event alternate compensation commissioners are unable to serve.

No alternate compensation commissioner will be contacted unless one of the original six appointees is unable to serve.

This project was approved by the Transportation Commission after July 1, 1999. The owner(s) has received 30 days notice of this public improvement (Sec. 6B.2A).

Should you require any additional information regarding the enclosed Application, please contact me.

Sincerely,

Cheryl Watson  
Condemnation Unit  
Office of Right of Way

Enc.

In the Matter of the Condemnation  
of Certain Rights in Land by the  
Iowa Department of Transportation  
for the Improvement of

**Primary Road No. U.S. 218**  
**South of the City of Janesville**  
located in **Black Hawk** County, Iowa

**CERTIFICATE AND NOTICE  
OF THE COMMENCEMENT OF  
CONDEMNATION PROCEEDINGS**

Project No. **NHSN-218-7(189)--2R-07** Group "A"

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To the Attorney General of the State of Iowa, or to the Special Assistant Attorney General assigned as Counsel to the Iowa Department of Transportation:

The Office of Right of Way hereby certifies that the Iowa Department of Transportation has been unable to secure by purchase from the following owner(s) of tracts, parts or portions thereof or certain rights therein, as shown by the plans on file, necessary for the construction of the above-referenced project:

**Gloria A. Dayton**

**Parcel 3B**

**Sec. 13, T90N, R14W**

**US Bank, National Association, ND**

**Parcel 3B**

**Sec. 13, T90N, R14W**

**Black Hawk County**  
**Treasurer**

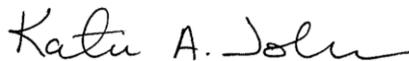
**Parcel 3B**

**Sec. 13, T90N, R14W**

The land or lands or property rights so required in the construction of said project are specifically shown by the plats and descriptions attached to the Application to the Chief Judge and Notice.

You are hereby notified that condemnation proceedings will be commenced to acquire the above-described lands and/or property rights.

Signed at Ames, Iowa, this **1** day of **July, 2014**.



---

Katie A. Johnson  
Condemnation Unit Coordinator  
Office of Right of Way  
Iowa Department of Transportation

Prepared by: Cheryl Watson 515-239-1273, IA Dept. of Transportation, Right of Way-Condemnation,  
800 Lincoln Way, Ames, IA 50010  
Return to: Cheryl Watson 515-239-1273, IA Dept. of Transportation, Right of Way-Condemnation,  
800 Lincoln Way, Ames, IA 50010

In the Matter of the Condemnation of Certain  
Rights in Land by the Iowa Department of  
Transportation for the Improvement of

**Primary Road No. U.S. 218**  
**South of the City of Janesville**  
located in **Black Hawk** County, Iowa

Project No. **NHSN-218-7(189)--2R-07** Group "A"

TO: **Kellyann M. Lekar**, Chief Judge, **1st** Judicial District including **Black Hawk** County, Iowa

Comes now the Iowa Department of Transportation and states that the public interest requires that certain rights be acquired in **Agricultural** land by Condemnation proceedings. The Iowa Department of Transportation, acting on behalf of the State of Iowa and/or its political subdivisions, has not been able to secure rights in lands by purchase and conveyance for the improvement of roads and streets. In accordance with Sec. 6B.2A, 6B.2B and 6B.3, the Code of Iowa, as amended by H.F. 476, the following is set forth:

**Description:** The lands and/or property rights sought to be condemned or affected are described on the attached Notice of Condemnation which is made a part of this Application.

**Plat:** The location of the right of way or other property rights sought to be condemned or affected are shown on the plat(s) attached to and a part of the attached Notice of Condemnation.

**Minimum Land Needs:** The minimum amount of land necessary to achieve the public purpose is as described in and shown on the Notice of Condemnation and attached plat(s).

**Names and Addresses:** The names and addresses of the record owners, lienholders, encumbrancers and other persons affected by this proceeding are listed on the attached Notice of Condemnation.

**Purpose:** The Department of Transportation desires the rights specified in the lands sought to be condemned for the improvement and/or maintenance of roads and streets within the State of Iowa.

**Statement of Individual Rights:** The Iowa Department of Transportation has provided the owner(s) with a statement of their individual rights and written notification as required under Sec. 6B.2A.

**Good Faith Negotiations:** The Applicant has made an effort to negotiate in good faith with the

**APPLICATION TO THE CHIEF  
JUDGE OF THE  
1st JUDICIAL DISTRICT  
FOR THE APPOINTMENT OF A  
COMMISSION TO APPRAISE  
DAMAGES**

owner(s) to acquire the property sought to be condemned. These efforts include:

- 1. Provided the owner(s) with written notification at least 30 days prior to the intent to proceed with this public improvement.
- 2. Provided the owner(s) with a copy of the appraisal of the property sought.
- 3. Discussed the basis of determining value.
- 4. Reviewed the project design plans.
- 5. Discussed the contents of the acquisition contract.
- 6. Addressed owner's questions and concerns.
- 7. Provided the owner(s) with a written offer of the fair market value.

Based on these efforts, we were unable to reach an agreement.

**Agricultural Land:** A part of the lands sought to be appropriated may be classified as Class I or Class II within an agricultural area and, if so classified, is reasonably necessary for this internal improvement.

**Request:** NOW, THEREFORE, the Iowa Department of Transportation hereby requests the appointment of a compensation commission of six qualified persons to view the premises and appraise the damages which the owners, lienholders, encumbrancers and other persons affected will sustain by reason of this Condemnation.

Dated at Ames, Iowa, this **1** day of **July, 2014**.

IOWA DEPARTMENT OF TRANSPORTATION  
David S. Gorham  
Special Assistant Attorney General  
and General Counsel to the Iowa DOT

By Katie A. Johnson  
Katie A. Johnson  
Condemnation Unit Coordinator  
Office of Right of Way

Filed in my office at \_\_\_\_\_, Iowa, this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
**Kellyann M. Lekar**  
Chief Judge of the **1st** Judicial District  
including **Black Hawk** County, Iowa.

I certify that this Application for Condemnation has been approved by the Chief Judge.

\_\_\_\_\_  
Condemnation Unit

In the Matter of the Condemnation  
of Certain Rights in Land by the  
Iowa Department of Transportation  
for the Improvement of

**Primary Road No. U.S. 218**  
**South of the City of Janesville**  
located in **Black Hawk** County, Iowa

**SELECTION AND APPOINTMENT OF  
COMPENSATION COMMISSIONERS  
BY THE CHIEF JUDGE OF THE  
1st JUDICIAL DISTRICT**

Project No. **NHSN-218-7(189)--2R-07** Group "A"

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An Application and Notice of Condemnation having been filed with me by the Iowa Department of Transportation for the selection and appointment, by lot, of six suitable persons as the law provides to act as a compensation commission to assess and appraise the damages sustained by reason of the condemnation of certain specified rights in certain land described by Applicant, in the Notice of Condemnation filed in the above-entitled matter, I hereby DESIGNATE, SELECT AND APPOINT as the members of said compensation commission required in this matter the following persons:

NAME	ADDRESS	QUALIFICATIONS
		Licensed Real Estate Salesperson or Broker
		Licensed Real Estate Salesperson or Broker
		Knowledgeable of Property Values by Virtue of Occupation
		Knowledgeable of Property Values by Virtue of Occupation
		Agricultural
		Agricultural

I further designate, select and appoint the above-named \_\_\_\_\_ to act as **Chairperson** of said commission.

**To the Sheriff of Black Hawk County, Iowa:** Attached hereto please find a duplicate of the Application for Condemnation in the above-entitled matter.

Dated at \_\_\_\_\_, Iowa, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
**Kellyann M. Lekar**  
Chief Judge of the **1st** Judicial District  
including **Black Hawk** County, Iowa

Filed in my office at **Waterloo**, Iowa, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
**Anthony Thompson**  
Sheriff of **Black Hawk** County, Iowa

In the Matter of the Condemnation  
of Certain Rights in Land by the  
Iowa Department of Transportation  
for the Improvement of

**Primary Road No. U.S. 218**  
**South of the City of Janesville**  
located in **Black Hawk** County, Iowa

**SUPPLEMENTARY ORDER**  
**APPOINTING ALTERNATE**  
**COMPENSATION COMMISSIONERS**

Project No. **NHSN-218-7(189)--2R-07** Group "A"

An Application and Notice of Condemnation having been filed with me by the Iowa Department of Transportation, entitled as above, for the selection and appointment, by lot, of a duly-constituted compensation commission, and said selection and appointment of up to five alternate commissioners, having been made by me, I further DESIGNATE, SELECT and APPOINT the following persons to serve as alternate members of said compensation commission, in the event that any of the said members having the same qualifications are unable to serve for any reason.

NAME	ADDRESS	QUALIFICATIONS
1. 2. 3. 4. 5.		Licensed Real Estate Salesperson or Broker
1. 2. 3. 4. 5.		Knowledgeable of Property Values by Virtue of Occupation
1. 2. 3. 4. 5.		Agricultural

The Sheriff of **Black Hawk** County, Iowa, shall, upon being informed of a vacancy in the compensation commission, notify an alternate member appointed having the same qualifications as the person unable to serve in the same manner as the original commissioners were notified.

Dated at \_\_\_\_\_, Iowa, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
**Kellyann M. Lekar**  
Chief Judge of the **1st** Judicial District  
including **Black Hawk** County, Iowa.

Filed in my office at **Waterloo**, Iowa, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
**Anthony Thompson**  
Sheriff of **Black Hawk** County, Iowa

In the Matter of the Condemnation  
of Certain Rights in Land by the  
Iowa Department of Transportation  
for the Improvement of

**SUMMONS TO COMMISSIONERS**

**Primary Road No. U.S. 218**  
**South of the City of Janesville**  
located in **Black Hawk** County, Iowa

Project No. **NHSN-218-7(189)--2R-07** Group "A"

**TO:** \_\_\_\_\_

The Iowa Department of Transportation has filed with the Chief Judge of the **1st** Judicial District including **Black Hawk** County, Iowa, an Application and Notice of Condemnation for the selection of a Compensation Commission to assess the damages which owners, lienholders, encumbrancers and other persons interested in the land from which certain rights are sought to be appropriated by these proceedings will sustain by reason of such appropriation of the rights as described in the Application and Notice of Condemnation for the improvement and/or maintenance of roads and streets in **Black Hawk** County, Iowa, and

Pursuant to Iowa law, you have been selected and appointed by the Chief Judge of the **1st** Judicial District for **Black Hawk** County, Iowa, as a member of such Compensation Commission, and such selection and appointment has been duly filed in my office and that Lester Akers has been designated as **Chairperson** of the Commission.

NOW, THEREFORE, you are commanded to be and appear before the undersigned in the office of the Sheriff at **Waterloo, Black Hawk** County, State of Iowa, on the 11th day of September, 2014, at 9:30 o'clock a.m. (DST) for the purpose of qualifying as such Commission, and proceed to view said premises and make an award of damages as by law provided.

\_\_\_\_\_  
**Anthony Thompson**  
Sheriff of **Black Hawk** County, Iowa

**ACCEPTANCE OF SERVICE**

**(Before accepting appointment to this commission, please note the persons and real estate affected by the condemnation on the attached Notice(s) to determine whether or not you possess any interest which would cause you to render a biased decision.)**

Due and legal service of foregoing Summons accepted and receipt of copy acknowledged at \_\_\_\_\_, Iowa, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. I further certify that I do not possess any interest in the above proceedings which would cause me to render a biased decision therein.

Filed in my office at **Waterloo**, Iowa, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
**Anthony Thompson**  
Sheriff of **Black Hawk** County, Iowa

**REFUSAL TO SERVE**

I will be unable to serve for the reason that I possess an interest in the proceeding which would cause me to render a biased decision, or for the reason that...

\_\_\_\_\_  
**Please sign original summons and return promptly to the Sheriff of Black Hawk County, Iowa.**

In the Matter of the Condemnation  
of Certain Rights in Land by the  
Iowa Department of Transportation  
for the Improvement of

**OATH OF COMMISSIONERS**

**Primary Road No. U.S. 218**  
**South of the City of Janesville**  
located in **Black Hawk** County, Iowa

Project No. **NHSN-218-7(189)--2R-07** Group "A"

STATE OF IOWA )  
Black Hawk County ) ss

Each of the undersigned, being duly sworn, says:

That I do possess the qualifications listed under my name below, and

That I do not possess any interest in the proceeding which would cause me to render a biased decision,

and, that I will, to the best of my ability, faithfully and impartially assess the damages which owner(s), lienholders, encumbrancers and other persons interested in the land from which certain rights are sought to be appropriated by these proceedings will sustain by reason of the appropriation of the rights set forth and described in the Application and Notice of Condemnation in the Office of the Sheriff for the improvement of roads and streets and make a written report to the Sheriff as Authorized and prescribed in Chapters 28E, 306, 306A, 306B, 306C, 313, 6A, and 6B, Code of Iowa, and any amendments thereto, and in accordance with the instructions of the Chief Justice of the Supreme Court, and will truly perform any and all other duties imposed upon me by law as a member of the compensation commission selected and appointed to assess said damages.

\_\_\_\_\_  
Name:  
**Licensed Real Estate Salesperson  
or Broker**

\_\_\_\_\_  
Name:  
**Licensed Real Estate Salesperson  
or Broker**

\_\_\_\_\_  
Name:  
**Knowledgeable of Property Values  
by Virtue of Occupation**

\_\_\_\_\_  
Name:  
**Knowledgeable of Property Values  
by Virtue of Occupation**

\_\_\_\_\_  
Name:  
**Agricultural**

\_\_\_\_\_  
Name:  
**Agricultural**

Acknowledged, subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(Notary Public / Clerk of Court) in and for said County and State

Filed in my office at **Waterloo**, Iowa, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
**Anthony Thompson**  
Sheriff of **Black Hawk** County, Iowa

In the Matter of the Condemnation  
of Certain Rights in Land by the  
Iowa Department of Transportation  
for the Improvement of

**Primary Road No. U.S. 218**  
**South of the City of Janesville**  
located in **Black Hawk** County, Iowa

**REPORT OF  
COMPENSATION  
COMMISSION**

Project No. **NHSN-218-7(189)--2R-07** Group "A"

**TO: Anthony Thompson, Sheriff of Black Hawk County, Iowa**

We, the undersigned, being duly-appointed and qualified Commissioners appointed to assess the damages sustained by the owners, lienholders, encumbrancers and other persons interested in the appropriation of certain specified rights as set forth and described in the Notice of Condemnation filed in the above-entitled matter, respectfully report as follows.

That we proceeded to view the respective premises at the time or times fixed in the notice to persons interested therein and do hereby assess and appraise the damages which the respective persons will sustain by reason of the appropriation as follows:

	<b>Land and Improvements</b>	<b>Consequential Damages</b>	<b>Condemnee's Total Award</b>	<b>Condemnee's Attorney Fees and Costs</b>
<b><u>Parcel No. 3B</u></b>	\$ _____	\$ _____	\$ _____	\$ _____
Gloria A. Dayton	\$ _____	\$ _____	\$ _____	\$ _____
US Bank, National Association, ND	\$ _____	\$ _____	\$ _____	\$ _____
Black Hawk County Treasurer	\$ _____	\$ _____	\$ _____	\$ _____
_____	\$ _____	\$ _____	\$ _____	\$ _____
_____	\$ _____	\$ _____	\$ _____	\$ _____
_____	\$ _____	\$ _____	\$ _____	\$ _____
_____	\$ _____	\$ _____	\$ _____	\$ _____
_____	\$ _____	\$ _____	\$ _____	\$ _____
_____	\$ _____	\$ _____	\$ _____	\$ _____
<b>Value of Condemnee's dwelling:</b>	\$ _____	\$ _____	\$ _____	\$ _____

Respectfully reported at \_\_\_\_\_, Iowa, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I certify that the above amounts are legally payable to each claimant and that the claim is correct and just and that payment has not been received.

Filed in my office at Waterloo, Iowa, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
**Anthony Thompson**  
Sheriff of **Black Hawk** County, Iowa

In the Matter of the Condemnation  
of Certain Rights in Land by the  
Iowa Department of Transportation  
for the Improvement of

**Primary Road No. U.S. 218**  
**South of the City of Janesville**  
located in **Black Hawk** County, Iowa

**ENDORSEMENT OF SHERIFF  
OF MAILING OF NOTICE OF  
APPRAISEMENT OF DAMAGES  
AND TIME FOR APPEAL**

Project No. **NHSN-218-7(189)--2R-07** Group "A"

---

I, the undersigned, hereby endorse and certify that a true copy of the *Notice of Appraisement of Damages and Time for Appeal* was served upon each of the parties of this proceeding, as listed herein, by enclosing said *Notice* in an envelope addressed to each such party at their respective last-known mailing address as disclosed by the record in the *Application to the Chief Judge* (excepting those parties, if any, listed below), with postage prepaid, and by depositing said envelope in a United States Post Office depository in \_\_\_\_\_, Iowa, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

---

**Anthony Thompson**  
Sheriff of **Black Hawk** County, Iowa

---

That such condemnation is sought for the improvement and/or maintenance of roads and streets in the State of Iowa in the matter prescribed in Chapters 28E, 306, 306A, 306B, 306C, 313, 6A, and 6B of the Code of Iowa and all amendments thereto.

That a commission for the purpose of appraising and awarding damages which will be caused by said appropriation and condemnation has been selected and appointed.

You are further notified that the Commissioners will report to the Sheriff's Office in **Waterloo**, Iowa, at 9:30 a.m. on the 11th day of September, 2014, and will view your property at approximately 10:00 a.m. on the same day. They will then return to the Sheriff's Office and proceed to appraise said damages. You may participate in these proceedings if you care to do so.

IOWA DEPARTMENT OF TRANSPORTATION  
 DAVID S. GORHAM  
 Special Assistant Attorney General  
 and General Counsel to the Iowa DOT

By Katie A. Johnson  
 Katie A. Johnson  
 Condemnation Unit Coordinator  
 Office of Right of Way  
 Iowa Department of Transportation  
 Ames, Iowa 50010

-----  
**ACCEPTANCE OF SERVICE**

I accept service of the above notice, I acknowledge receipt of a copy and I waive time of service and any requirements that such notice be published in a newspaper.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

STATE OF IOWA )  
 ) ss:  
 COUNTY OF \_\_\_\_\_ )

Received the within notice the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and I hereby certify that I have served to each person named below by delivering a true copy of the same to each person at the time and place set opposite their respective names:

NAME	DATE	CITY OR TOWN	COUNTY	STATE

**FEES:**  
 Service \$ \_\_\_\_\_  
 Mileage \$ \_\_\_\_\_  
 TOTAL \$ \_\_\_\_\_

Sheriff of \_\_\_\_\_ County, Iowa

In the Matter of the Condemnation  
of Certain Rights in Land by the  
Iowa Department of Transportation  
for the Improvement of

**Primary Road No. U.S. 218**  
**South of the City of Janesville**  
located in **Black Hawk County, Iowa**

**SHERIFF'S CERTIFICATION**  
**AS TO AWARDS AND COSTS**

Project No. **NHSN-218-7(189)--2R-07** Group "A"

**THE ORIGINAL CERTIFIED APPLICATION FOR CONDEMNATION IS RECORDED IN**  
**BOOK \_\_\_\_\_, PAGE \_\_\_\_\_, OR INSTRUMENT/DOCUMENT NUMBER \_\_\_\_\_,**  
**AND DATED \_\_\_\_\_.**

**TO: Iowa Department of Transportation, Ames, Iowa**

I certify that the commissioners in the above-entitled cause convened at \_\_\_\_\_, Iowa,  
on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and thereupon proceeded to view the premises, and said  
commissioners did on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, file their report in my office, awarding  
damages as follows:

NAMES OF CONDEMNNEES	AWARD	ATTORNEY FEES AND COSTS
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
<b>TOTAL DAMAGES AWARDED:</b>	<b>\$ _____</b>	<b>\$ _____</b>

I certify that the costs incident to this proceeding are taxed and Notices were served as listed below:  
(attach separate list if necessary)

Date	Names of Condemnees	Service Fee	Mileage x Rate Per Mile = Amount	Sum

Sub Total    \$ \_\_\_\_\_

**Sheriff's Fees**

Summoning and attending Commissioners (includes service fees)  
(Maximum allowed by Code Section 331.655 is \$100.00)

\$ 100.00

Mileage while summoning and attending Commissioners  
(\_\_\_\_\_ miles x \$ \_\_\_\_\_ per mile)

\$ \_\_\_\_\_

**TOTAL:**    \$ \_\_\_\_\_

\_\_\_\_\_  
**Anthony Thompson**  
Sheriff of **Black Hawk** County, Iowa

COMMISSIONERS' COSTS

-2-

\_\_\_\_\_ of  
\_\_\_\_\_, Iowa

\_\_\_\_\_ day service \$ \_\_\_\_\_  
\_\_\_\_\_ miles at \_\_\_\_ cents \_\_\_\_\_  
\_\_\_\_\_ meals \_\_\_\_\_  
**TOTAL \$ \_\_\_\_\_**

\_\_\_\_\_ of  
\_\_\_\_\_, Iowa

\_\_\_\_\_ day service \$ \_\_\_\_\_  
\_\_\_\_\_ miles at \_\_\_\_ cents \_\_\_\_\_  
\_\_\_\_\_ meals \_\_\_\_\_  
**TOTAL \$ \_\_\_\_\_**

\_\_\_\_\_ of  
\_\_\_\_\_, Iowa

\_\_\_\_\_ day service \$ \_\_\_\_\_  
\_\_\_\_\_ miles at \_\_\_\_ cents \_\_\_\_\_  
\_\_\_\_\_ meals \_\_\_\_\_  
**TOTAL \$ \_\_\_\_\_**

\_\_\_\_\_ of  
\_\_\_\_\_, Iowa

\_\_\_\_\_ day service \$ \_\_\_\_\_  
\_\_\_\_\_ miles at \_\_\_\_ cents \_\_\_\_\_  
\_\_\_\_\_ meals \_\_\_\_\_  
**TOTAL \$ \_\_\_\_\_**

\_\_\_\_\_ of  
\_\_\_\_\_, Iowa

\_\_\_\_\_ day service \$ \_\_\_\_\_  
\_\_\_\_\_ miles at \_\_\_\_ cents \_\_\_\_\_  
\_\_\_\_\_ meals \_\_\_\_\_  
**TOTAL \$ \_\_\_\_\_**

\_\_\_\_\_ of  
\_\_\_\_\_, Iowa

\_\_\_\_\_ day service \$ \_\_\_\_\_  
\_\_\_\_\_ miles at \_\_\_\_ cents \_\_\_\_\_  
\_\_\_\_\_ meals \_\_\_\_\_  
**TOTAL \$ \_\_\_\_\_**

**GRAND TOTAL \$ \_\_\_\_\_**

I certify that the foregoing amounts are legally payable to each claimant and that the claim is correct and just and that the payment has not been received.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
**Anthony Thompson**  
Sheriff of **Black Hawk** County, Iowa

In the Matter of the Condemnation  
of Certain Rights in Land by the  
Iowa Department of Transportation  
for the Improvement of

**Primary Road No. U.S. 218**  
**South of the City of Janesville**  
located in **Black Hawk** County, Iowa

**NOTICE OF APPRAISEMENT  
OF DAMAGES AND TIME  
FOR APPEAL**

Project No. **NHSN-218-7(189)--2R-07** Group "A"

**Parcel No. 3B**

	<b>Land and Improvements</b>	<b>Consequential Damages</b>	<b>Condemnee's Total Award</b>	<b>Condemnee's Attorney Fees and Costs</b>
Gloria A. Dayton	\$ _____	\$ _____	\$ _____	\$ _____
US Bank, National Association, ND	\$ _____	\$ _____	\$ _____	\$ _____
Black Hawk County Treasurer	\$ _____	\$ _____	\$ _____	\$ _____
_____	\$ _____	\$ _____	\$ _____	\$ _____
_____	\$ _____	\$ _____	\$ _____	\$ _____
_____	\$ _____	\$ _____	\$ _____	\$ _____
_____	\$ _____	\$ _____	\$ _____	\$ _____
_____	\$ _____	\$ _____	\$ _____	\$ _____
_____	\$ _____	\$ _____	\$ _____	\$ _____

**NOTE: If Owner-Occupied Dwelling is acquired:**

Value of Condemnees' Dwelling: \$ \_\_\_\_\_

Value of Land and Improvements  
other than Condemnees' Dwelling: \$ \_\_\_\_\_

You and each of you are hereby notified that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the duly-appointed and qualified commissioners assessed and appraised the damages sustained by reason of the condemnation as set out above, and that pursuant to the Code of Iowa, you may, within (30) days from the date of mailing this Notice, appeal to the District Court as by law provided. If no appeal is filed, you may pick up the award warrant on deposit with the Sheriff. In the event an appeal is filed, it will be necessary for the court to order any disbursement of funds.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
**Anthony Thompson**  
Sheriff of **Black Hawk** County, Iowa

In the Matter of the Condemnation  
of Certain Rights in Land by the  
Iowa Department of Transportation  
for the Improvement of

**AFFIDAVIT OF FINAL OFFER**

**Primary Road No. U.S. 218**  
**South of the City of Janesville**  
located in **Black Hawk** County, Iowa

Project No. **NHSN-218-7(189)--2R-07** Group "A"

**Parcel No. 3B**

On this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, comes the Iowa Department of Transportation and states, as by law provided, that the most recent offers made to the owner(s), lienholders, encumbrancers and other persons interested in the appropriation of certain specified rights in certain land as described by the Applicant in the Notice of Condemnation filed in the above matter are as follows:

Owner(s) & Lienholders \$ \_\_\_\_\_  
Gloria A. Dayton  
US Bank, National Association, ND  
Black Hawk County Treasurer

Tenant(s) \$ \_\_\_\_\_

IOWA DEPARTMENT OF TRANSPORTATION

By \_\_\_\_\_

Condemnation Hearing Compliance Officer  
Office of Right of Way

Acknowledged, subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
(Notary Public / Clerk of Court) in and for said County and State

Filed in my office at **Waterloo**, Iowa, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
**Anthony Thompson**  
Sheriff of **Black Hawk** County, Iowa

**CONDEMNATION COMMISSIONERS STATEMENT**

To the Sheriff of **xxxx** County

I certify that my fee and expenses as a member of the commission in the matter of the condemnation of certain real estate or rights to real estate for Project No. **xxxxxx**, held on the \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_, are as follows and that these claims are due, just, and unpaid.

\_\_\_\_\_ day service at \$200.00 ..... \$ \_\_\_\_\_

\_\_\_\_\_ miles at \_\_\_\_\_ cents ..... \$ \_\_\_\_\_

\_\_\_\_\_ meals ..... \$ \_\_\_\_\_

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

COMMISSIONER

**RECORDING DATA SHEET**  
(For Billing Purposes Only)

FOR PAYMENT, PLEASE RETURN TO:

IOWA DEPARTMENT OF TRANSPORTATION  
OFFICE OF RIGHT OF WAY  
CONDEMNATION SECTION  
AMES, IA 50010

**RE:           Black Hawk County Condemnation**  
**Project No. NHSN-218-7(189)--2R-07 Group "A"**  
**Parcel 3B                           Gloria A. Dayton**  
**Parcel                               US Bank, National Association, ND**

I, \_\_\_\_\_, Recorder of Black Hawk County, do hereby certify that the proceedings in the above-entitled matter were filed in my office on the \_\_\_\_\_ day of \_\_\_\_\_, 2015, and are recorded in BOOK \_\_\_\_\_, PAGE \_\_\_\_\_ and/or INST. NO. \_\_\_\_\_ of the records of said county, all as provided by law.

I certify that the fee for recording of these papers is in the amount of \_\_\_\_\_ and that said amount is legally payable and that the claim is correct and just and that payment has not been received.

\_\_\_\_\_  
COUNTY RECORDER

**AFFIDAVIT OF MAILING OF NOTICE  
BY STATE OF IOWA, CONDEMNOR**

In the Matter of the Condemnation of Certain  
Rights in Land by the Iowa Department of  
Transportation for the Improvement of  
Primary Road No./US Highway xxxxxxx  
Location(east/west/north/south of city/town)  
located in xxxxx County, Iowa

Project No. xxxxxx

Group "x", Parcel xxx

STATE OF IOWA )  
 ) ss.  
COUNTY OF xxxxxx )

I, Katie A. Johnson, being duly sworn, state that I am the Condemnation Coordinator for the Iowa Department of Transportation in the above-entitled matter.

(I further state that personal service cannot be made to an out of state party: insert name and address of party/ I further state that personal service cannot be made to an unknown party due to the death of: insert name and address of deceased/ I also further state that personal service cannot be made to an unknown party and unknown address: Unknown ownership interests) Could be any one or more of these reasons.

I further state the Notice will be published on list all 3 dates paper running; in the name of newspaper newspaper, in accordance with the Rules of Civil Procedure 60.1 and 62.

Therefore, a copy of the Notice in this matter was mailed to the above condemnee at the place set opposite its name.

I further state that other persons, companies or corporations not listed may own or have an interest in the land sought to be appropriated. Therefore, to protect whatever interest, if any, they may possess, the Notice of Condemnation, when published, shall provide notification of the forthcoming condemnation proceeding.

\_\_\_\_\_  
Katie A. Johnson  
Condemnation Unit Coordinator

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
NAME  
Notary Public in and for the State of Iowa

## Notice of Appraisal Hearing and Public Meeting of Compensation Commission to Assess Damages

In the matter of the Condemnation of Certain Rights in Land by the Iowa Department of Transportation for the Improvement of Primary Road No. U.S. 20 South and in the City of Dyersville located in Delaware County, Iowa

Project No. NHSN-020-8(48)--2R-28, Group "A"

TO: \*\*List your commissioners here\*\*

An Application of Condemnation, having been presented to the Chief Judge of the Judicial District, requesting the appointment of six (6) qualified persons as a Condemnation Commission:

WHEREAS, such an appointment has been filed in my office and whereas you have been appointed and selected as such Condemnation Commissioners:

NOW THEREFORE, you are commanded to be and appear before the undersigned at the Office of the Sheriff of **DELAWARE** County, Iowa, at **301 E. Main St, Manchester, Iowa** on the **15<sup>th</sup>** day of **October, 2014**, at the hour of **9:30 A.M.** for the purpose of qualifying as such commissioner, and proceed to view said premises and make an award of damages as provided by law. Prior to the meeting of the commission, the commission or a commissioner shall not communicate with the applicant, property owner, or tenant, or their agents, regarding the condemnation proceedings.

FAIL NOT TO MAKE YOUR APPEARANCE UNDER PENALTY OF THE LAW.

This notice published pursuant to Section 6B.11, Code of Iowa.

\_\_\_\_\_  
John A. LeClere  
Sheriff of Delaware County, Iowa

In the Matter of the Condemnation  
of Certain Rights in Land by the  
Iowa Department of Transportation  
for the Improvement of

**ORDER APPOINTING  
SUBSTITUTE COMPENSATION  
COMMISSIONER(S)**

Primary Road No. \_\_\_\_\_  
\_\_\_\_\_ (fill in project location)  
located in \_\_\_\_\_ (fill in county and state)

Project No. \_\_\_\_\_

Group " \_\_\_\_\_ "

\_\_\_\_\_

**NOW ON THIS** \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, an Order Appointing Substitute Compensation Commissioner(s) having been presented to me due to the inability of \_\_\_\_\_, the original appointee(s), and \_\_\_\_\_, appointed as alternate(s), all having qualifications as being \_\_\_\_\_ (list type of qualification) to serve as (a) commissioner(s) in the condemnation referenced above, it is ordered that the vacancy(ies) shall be filled by one of the following commissioners:

	<b>NAME</b>	<b>ADDRESS</b>	<b>QUALIFICATIONS</b>
1)	_____	_____	_____
2)	_____	_____	_____
3)	_____	_____	_____

The Sheriff of \_\_\_\_\_ County, Iowa, shall notify the substitute commissioner(s) in the same manner as the original commissioners were notified.

Dated at \_\_\_\_\_, Iowa, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Chief Judge of the \_\_\_\_\_ Judicial District  
including \_\_\_\_\_ County, Iowa

Filed in my office at \_\_\_\_\_, Iowa, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Sheriff of \_\_\_\_\_ County, Iowa

In the Matter of the Condemnation of  
Certain Rights in Land by the Iowa  
Department of Transportation for the  
Improvement of

AMENDMENT TO APPLICATION  
TO THE CHIEF JUDGE OF THE 1ST  
JUDICIAL DISTRICT FOR THE  
APPOINTMENT OF A COMMISSION  
TO APPRAISE DAMAGES

Primary Road No. U.S. 20

AND

South of and in the City of Dyersville

located in Delaware County, Iowa

AMENDMENT TO NOTICE

Project No. NHSN-20-8(48)--2R-28

Group "A"

TO: John Le Clere, Sheriff of Delaware County, Iowa

and

TO: Leon Elenz, 3332 U.S. Highway 20, Dyersville, IA 52040  
City of Dyersville, Iowa, c/o City Clerk, 340 1st Ave E, Dyersville, IA 52040  
Delaware County, Iowa, c/o County Auditor, 301 E Main Street, Manchester, IA 52057

**COMES NOW THE IOWA DEPARTMENT OF TRANSPORTATION AND AMENDS THE APPLICATION AND NOTICE IN THE ABOVE ENTITLED PROCEEDINGS AS FOLLOWS:**

Striking Paragraph No. 1 on Page 3 of the Notice and replacing it with the following:

Any and all improvements, including buildings or fences, if any, located wholly within the land sought in fee simple title are condemned in their entirety.

And adding the following as Paragraph No. 6 to the Notice:

Any 2014 crops growing on the land sought to be appropriated are reserved to the condemnee until February 28, 2015. Any crops not removed by said date shall become the property of the State of Iowa to dispose of as is deemed fitting.

Dated this \_\_\_\_\_ day of October, 2014.

IOWA DEPARTMENT OF TRANSPORTATION  
David S. Gorham  
Special Assistant Attorney General  
and General Counsel to the Iowa DOT

By \_\_\_\_\_  
Katie A. Johnson  
Condemnation Unit Coordinator  
Office of Right of Way

Filed in my office at Wapello, Iowa, this \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
John Le Clere  
Sheriff of Delaware County, Iowa

In the Matter of the Condemnation of  
Certain Rights in Land by the Iowa  
Department of Transportation for the  
Improvement of  
Primary Road No. U.S. 20  
In the City of Dyersville  
located in Delaware County, Iowa  
Project No. NHSN-20-8(48)--2R-28  
Group "D" Parcel 3B

Prepared by and Return To:

Cheryl Watson, Office of Right of Way, 800 Lincoln Way, Ames, IA 50010 (515)239-1273

DISMISSAL

TO: John Le Clere, Sheriff of Delaware County, Iowa  
and

TO:

Crop Production Services, Inc., c/o C T Corporation System, Registered Agent, 400 E. Court Avenue,  
Des Moines, Iowa 50309

City of Dyersville, Iowa, c/o City Clerk, 340 1<sup>st</sup> Avenue East, Dyersville, Iowa 52040  
Delaware County, Iowa, c/o County Auditor, 301 E. Main, Manchester, Iowa 52057

and to all other persons, companies or corporations having any interest in or owning any of the following described  
real estate: Part of Lot 1 of 20 West Industrial Center Third Addition, in the City of Dyersville, Delaware County,  
Iowa.

The Iowa Department of Transportation dismisses, without prejudice, the above-referenced proceeding against all  
properties and property owners. The original Certified Application for Condemnation approved by the Chief Judge  
was filed in the Office of the Delaware County Recorder on October 27, 2014, and occurs in Book 2014, Page 2717.

Dated at Ames, Iowa, this 3rd day of December, 2014.

IOWA DEPARTMENT OF TRANSPORTATION  
DAVID S. GORHAM  
Special Assistant Attorney General and Counsel

By \_\_\_\_\_  
Katie Johnson  
Condemnation Unit Coordinator

Time-Stamped in my office at \_\_\_\_\_, Iowa, this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
John Le Clere  
Sheriff of Delaware County, Iowa

CONDEMNATION

hearing date

xxxxxx County, Project Number, Group "xxx", Parcel(s) xxx, Primary Road No./US Highway xxxxx, location (south, north, east, or west of the City/town).

APPLICATION RECORDED: XXDATEXX

XXRECORDING INFOXX

SHERIFF – xxxxxxxxxxxxxx

COMMISSIONER

ADDRESS

List commissioners

list commissioners address (town/city) only

Department of Transportation Representative – Henning/Myers

SCHEDULE

Sheriff's Office

town Sheriff's office is in

9:30 a.m.

Condemnation name

Parcel xxx

10:00 a.m.

Condemnation name

Parcel xxx

10:10 a.m.

(if more than one parcel)

Hearing and Awards

Sheriff's Office





## ALLOCATION OF PROCEEDS STATEMENT

**Mail Completed Form To:**

Condemnation Unit  
Office of Right of Way  
Iowa Department of Transportation  
800 Lincoln Way  
Ames, IA 50010

(INSERT) County  
Project (INSERT)  
Parcel No. (INSERT)

Attention: (INSERT)  
Condemnation Agent

**GROSS PROCEEDS AMOUNT (AWARD): \$(INSERT AMOUNT)**

NAME OF SELLER	MAILING ADDRESS	AMOUNT
(INSERT NAME)	(INSERT ADDRESS)	\$ _____
(INSERT NAME)	(INSERT ADDRESS)	\$ _____
(INSERT NAME)	(INSERT ADDRESS)	\$ _____
(INSERT NAME)	(INSERT ADDRESS)	\$ _____
(INSERT NAME)	(INSERT ADDRESS)	\$ _____

**NOTICE: IRS Regulations** require that the **entire** dollar amount of the gross proceeds must be reported to **each** seller's TIN (social security number), if the allocation statement is incomplete, not returned to the DOT, or statements contain conflicting gross proceed amounts from sellers.



appear before the commission. However, if the commission is deliberating in closed session, and after deliberations commence the commission requires further information from a party or a witness, the commission shall notify the property owner and the acquiring agency that they are allowed to attend the meeting at which such additional information shall be provided but only for the period of time during which such additional information is being provided. The property owner and the acquiring agency shall be given reasonable opportunity to attend the meeting.

9. The commission shall keep minutes of all its meetings, which minutes are a public record open to public inspection. The minutes are required to show the date, time, and place of each meeting; the members present; the action taken at each meeting; the results of each vote taken and information sufficient to indicate the vote of each member present.
10. The vote of each member present must be made public at the open session. If a vote is taken by the commission during closed session deliberations, the commission must reconvene in open session at the close of its deliberations and the vote of each member during the closed session must be made public.
11. The minutes are public record open to public inspection.
12. The sheriff shall coordinate the meeting of the commissioners, shall arrange an appropriate meeting place for the commissioners, shall assure that appointed commissioners receive the order of the court appointing them and directing their attendance at the meeting of commissioners, and shall report the unavailability or absence of appointed commissioners to the chief judge, to the applicant, and to the landowner.
13. The sheriff shall furnish transportation to and from the site of the property the commission is required to view.

#### **Assessment of Damages**

1. In determining fair market value of property, the commissioners shall not consider only the assessed

value assigned to such property for purposes of property taxation.

2. A property owner is entitled to be made whole, but double recovery is not allowed.
3. When the entire property unit is taken, the measure of damages is the fair market value of the property immediately before the condemnation and before such value has been affected by the proposed public use. When only a portion of the property unit is taken, including certain rights such as an easement, the measure of damages is the difference between the fair market value of the property as a whole immediately before condemnation and before it has been affected by the proposed public use and the fair market value of the remaining property after the taking. Any advantage or benefit that may accrue to the remaining property by reason of the public use is not to be considered. Substantially the same measure applies to a leasehold.
4. The commission shall consider and make allowance for any personal property that is damaged or destroyed or reduced in value, and, when applicable, for the cost of removing and replacing fences and removing buildings onto abutting property of the owner.
5. Allowance shall be made, if any, for the reasonable cost of moving an owner's or tenant's personal property from the land to be condemned to a point no greater than fifty (50) miles; but in any event, the damages for moving shall not exceed five thousand dollars (\$5000) for each owner or tenant. An owner or tenant may apply for a separate moving award for the cost of moving personal property only if all other damages provided by law have been awarded and are insufficient to pay the owner's or tenant's reasonable costs of moving.
6. At the request of the condemner or the condemnee, the commission shall divide the damages into parts to indicate the value of any dwelling, the value of the land and improvements other than a dwelling, and the value of any additional damages.
7. The commission shall file with the sheriff a written report containing the appraisal. All commissioners are required to sign the written report to the sheriff.

Commissioners who do not concur with the majority of the commissioners may so note on the report.

8. In arriving at the fair market value of the property, the commission shall not consider evidence or information regarding prior negotiations between the parties. However, when the commission report the commission's award to the sheriff, if it exceeds one hundred and ten percent of the condemner's final offer, the sheriff will so advise the commission and the commission will then determine and fix reasonable attorney's fees and costs, including the reasonable cost of one appraisal, if any, incurred by the condemnee in presenting the condemnee's case before the commission.

These brief and general instructions do not contain all of the issues that might confront you. I advise you to carefully review applicable state laws relevant to your responsibilities and procedures and the condemnation matter before you. In addition, the position of the parties or their attorneys may be explained to you at the time of the hearing.

Dated this 6<sup>th</sup> day of April, 2016.



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Mark S. Cady, Chief Justice



Office of Right of Way, 800 Lincoln Way, Ames, IA 50010

**CONDEMNATION HEARING REPORT**

County Jones Project No. STPN-136-2(28)—2J-53  
 Parcel No. 1 Group "A"  
 Condemnation Hearing Date December 1<sup>st</sup>, 2015

1. Fee Owner Kenneth James Burda, Ruth E. Burda Estate, Deborah Burda, Patricia Lee Burda
2. Contract Purchaser Joel Lasak
3. Lessees \_\_\_\_\_
4. Tenant \_\_\_\_\_
5. DOT Representative Dwayne Myers
6. Owner's Counsel \_\_\_\_\_
- 6A. Lessee/Tenant Counsel \_\_\_\_\_
7. Offer made by Contract \$2,350.00
8. Offer made by Condemnation \* \$3,700.00

\*Reason for difference in contract offer Joel Lasak recently purchased the property from the Burda's, Compensation is based off of Mr. Lasak's purchase price

9. Condemnation Award:

	<u>Owner</u>	<u>Lessee</u>	<u>Tenant</u>
a. Dwelling	_____	_____	_____
b. Land & Improvements	_____	_____	_____
c. Damages	_____	_____	_____
d. Moving Costs	_____	_____	_____
e. Total Condemnation Award	<u>\$0.00 (Owners)</u> <u>\$3,700.00 (CP)</u>	_____	_____
Attorney Fees	_____	_____	_____

10. Owner's Asking Joel Lasak
- Lessee's Asking \_\_\_\_\_
- Tenant's Asking Not Present – Signed tenant purchase agreements

11. APPRAISALS MADE BY STATE

<u>Name</u>	<u>Staff or fee</u>	<u>Before</u>	<u>After</u>	<u>Compensation</u>
<u>Edward R. Greenman</u>	<u>Staff</u>	<u>n/a</u>	<u>n/a</u>	<u>2,350.00</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

12. WITNESSES FOR OWNER

<u>Name</u>	<u>Occupation</u>	<u>Before</u>	<u>After</u>	<u>Compensation</u>
<u>None Present</u>	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

13. FACTORS AFFECTING CONDEMNATION AWARD (Mark those applicable)

- a. Omission of compensable items
- b. Jury increase in fence price
- c. Jury increase in land price
- d. Jury increase in damages to remainder
- e. Divergency of State's appraisals
- f. Persuasiveness of owners and witnesses
- g. Extremely complex taking
- h. Inadequacy of data supporting remainder damages
- i. More recent sales than used in State's appraisals
- j. Other factors Owners had sold to Contract purchaser but hadn't transferred title yet. To help expedite the process to get possession an "uncontested" hearing was held

COMMENTS ON FACTORS CHECKED AND/OR COMMENTS ABOUT WHAT TRANSPIRED AT THE HEARING

The subject property located along Highway 136 approximately 1.5 miles east of Oxford Junction, IA and consists of 267.44 acres of land that is zoned Agricultural.

The proposed acquisition area consists of 0.30 acres of fee title to the State of Iowa, a 0.04 acre Temporary easement to Shape and payment for fencing (22 rods of barbed wire fence and 6 corner sets).

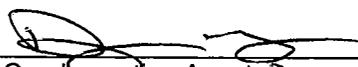
The commissioners were sworn in at the Jones County Sheriff's Office on 12/1/2015 at 9:30 a.m.; as it was a "Friendly hearing" we skipped the viewing. Scott Henning from the Office of Right-of-way accompanied me at the hearing and Mr. Lasak was present. We then presented the written materials and the State's position.

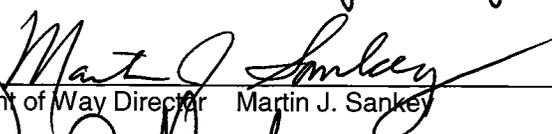
I asked that they please award the agreed upon amount of \$3,700.00. The commissioners made a motion and agreed to the requested amount.

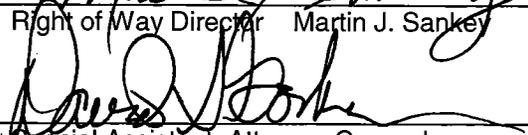
This settlement was made in the best interest of the public

- Accept Condemnation Award
- Reject Award and Appeal to District Court

Concurrence by Legal Department

  
 Condemnation Agent Deborah Myers

  
 Right of Way Director Martin J. Sankey

  
 Special Assistant, Attorney General



Office of Right of Way

RIGHT OF WAY DIRECTOR'S RECOMMENDATION

Form 634-066  
(Revised 3/09)

County Jones Project No. STPN-136-2(28)--2J-53  
 Parcel 1 Group "A"  
 Condemnation Hearing Date December 1<sup>st</sup>, 2015

Pcl	Offer	Asked	Award	Recommendation by Right of Way Director	Concurrence By General Counsel
1	3,700.00	3,700.00	3,700.00	Accept MJS 12-7-15	OK DJB 12-8-15

FOR THE PURPOSE OF SAVING INTEREST DOLLARS:

In the case of an appeal (by either condemnor or condemnee), it is suggested the Iowa DOT General Counsel consider a partial disbursement of funds as follows:

Parcel No.	Suggested Disbursement
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____



**CONDEMNATION  
PROCEEDINGS**  
Recorder's Cover Sheet

**PREPARER INFORMATION:** xxxx County Sheriff, (insert address & phone number)

**TAXPAYER INFORMATION:** Tax Exempt-IA Code Sec. 427.1 (for fee) Tax Exempt-IA Code Sec. 427.2 (for easement) (Prop Mgmt-ROW Office, IDOT, 800 Lincoln Way, Ames, IA 50010)(\_\_ County Engineer's Office, \_\_, \_\_, IA)(City Clerk's Office, \_\_, \_\_, IA) (list fee owner if TE/Tenant only)

**RETURN DOCUMENT TO:** xxxx, Iowa Department of Transportation, Office of Right of Way, 800 Lincoln Way, Ames, IA 50010

**GRANTORS:**

List all Fee Owners

If Tenant Only:

List all Tenants (Leasehold Interest Only)

**GRANTEES:**

State of Iowa (Condemnor)

And/or xx County, Iowa

And/or City of xx, Iowa

**DOCUMENT OR INSTRUMENT NUMBER OF PREVIOUSLY RECORDED DOCUMENTS:** Application for Condemnation filed xxxx, in Book xxxx, Page xxxx

**LEGAL DESCRIPTION:** (Type brief legal from paragraph 1 of each Notice)

Xxxx Project No. xxxx  
xxxx (Parcel No. xx)

Form 634-061  
3-86



Iowa Department of Transportation

County & Project \_\_\_\_\_

Parcel \_\_\_\_\_

Date of Hearing \_\_\_\_\_

- 1. Condemnee accepted award \_\_\_\_\_  
(date)
- 2. Notice of Appeal filed \_\_\_\_\_  
(date)
- 3. 30 day period expired  
and neither of above has taken place. \_\_\_\_\_

\_\_\_\_\_, Sheriff

\_\_\_\_\_ County, Iowa

**Return of Service****IN THE IOWA DISTRICT COURT IN AND FOR DELAWARE COUNTY**

**IN THE MATTER OF THE CONDEMNATION OF CERTAIN  
RIGHTS IN LAND BY THE IOWA DEPARTMENT OF  
TRANSPORTATION FOR THE IMPROVEMENT OF  
PRIMARY ROAD NO. U.S. 20  
SOUTH AND IN THE CITY OF DYERSVILLE  
LOCATED IN DELAWARE COUNTY, IOWA**

Case Number: **NHSN-20-8(48)--2R-28**  
Civil Number: **14-000495**  
Date Received: **08/11/2014 @ 15:15**  
Date Printed: **11/06/2014 @ 15:33**

**STATE OF IOWA  
DELAWARE COUNTY**

}

I hereby certify that I served a copy of:

**APPLICATION  
NOTICE**

**To: ELENZ,LEON at \_\_\_\_\_, DYERSVILLE, IA 52040**  
on **08/13/2014 @ 10:20** Type of Service: **PERSONAL**

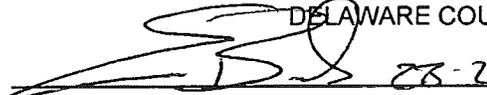
Remarks:

Case Notes:

**Fees:**

Service Fees:	15.00
Mileage:	19.04
Copies:	0.00
Total:	34.04

JOHN A. LECLERE, SHERIFF  
DELAWARE COUNTY

By:   
OCEDB ERIC BROOKS

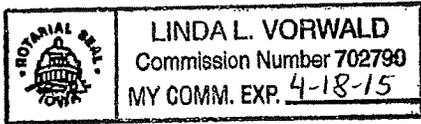
Paid By: STATE OF IOWA  
Date: 10/30/2014  
Check #: 67195870

STATE OF IOWA  
DUBUQUE COUNTY SS:

CERTIFICATE OF PUBLICATION

I, Linda L. Vorwald, of Woodward Communications, Inc., an Iowa corporation, publisher of the Dyersville Commerical, a newspaper of general circulation published in the City of Dyersville, County of Dubuque and State of Iowa; hereby certify that the attached notice was published in said newspaper on the following dates Aug 13, 20, 27, 2014, and for which the charge is \$ 329.65

Subscribed to before me, a Notary Public in and for Dubuque County, Iowa, this 29<sup>th</sup> day of Aug, 2014.



*Linda L. Vorwald*  
Notary Public in and for  
Dubuque County, Iowa

NOTICE

In the Matter of the  
Condemnation of Certain Rights  
in Land  
by the Iowa Department  
of Transportation for the  
Improvement of  
Primary Road No. U.S. 20  
South of and in the City of  
Dyersville  
located in Delaware County,  
Iowa  
Project No. NHSN-20-8(48)-  
-2R-28  
Group "A"  
TO:  
Leon Elenz, 3332 U.S.  
Highway 20, Dyersville, IA 52040

City of Dyersville, Iowa, c/o  
City Clerk, 340 1st Ave E, Dyersville,  
IA 52040

Delaware County, Iowa, c/o  
County Auditor, 301 E Main Street,  
Manchester, IA 52057

and to all other persons,  
companies or corporations having  
any interest in or owning any of  
the following described real estate:  
Part of the Northwest Quarter of the  
Northwest Fractional Quarter, the  
Northeast Quarter of the Northwest  
Fractional Quarter, the Southwest  
Quarter of the Northwest Fractional  
Quarter and the Northwest Quarter  
of the Northeast Fractional Quarter  
all in Section 1, Township 88 North,  
Range 3 West, of the 5<sup>th</sup> Principal  
Meridian, Delaware County, Iowa.

You, and each of you, are  
hereby notified that the State of  
Iowa and the City of Dyersville,  
Iowa, desire certain rights in land  
more specifically described as  
follows and shown with reference  
to their location as to land affected  
on the Acquisition Plats Exhibit  
"A-1" (land needed for public  
improvement), "A-2" (uneconomical  
remnant), and "A-3" (land needed  
for public improvement), and  
to the Application filed with the  
Chief Judge of the Judicial District  
containing Delaware County, Iowa,  
and in the Office of the Sheriff of  
Delaware County, Iowa, to which  
you are referred:

The title in fee simple sought  
to be appropriated, for the use and  
benefit of the State of Iowa, is in  
land described as follows:

A parcel of land located in  
the Northwest Fractional Quarter  
of Section 1, Township 88 North,  
Range 3 West of the 5<sup>th</sup> P.M.,  
Delaware County, Iowa, as shown  
on the Acquisition Plat Exhibit "A-  
1", and by reference made a part  
hereof.

Said parcel is described as  
follows:

Commencing at the Northwest  
Corner of Section 1; thence South  
01°56'07" East 156.35 feet along  
the west line of the Northwest  
Fractional Quarter of Section 1  
to the southerly right of way of  
Primary Road No. U.S. 20 and the  
point of beginning; thence North  
86°31'04" East 33.01 feet along  
said right of way; thence North  
88°27'16" East 791.25 feet along  
said right of way; thence North  
82°47'38" East 101.39 feet along  
said right of way; thence North  
88°27'16" East 434.96 feet along  
said right of way; thence South  
86°45'41" East 359.74 feet along  
said right of way; thence North  
88°27'03" East 522.36 feet along  
said right of way; thence South  
71°25'14" West 347.06 feet; thence  
South 69°12'36" West 401.83  
feet; thence South 66°05'12"  
West 213.79 feet; thence South  
54°57'09" West 141.49 feet; thence  
South 38°08'44" West 400.50 feet;  
thence South 51°27'42" West  
81.76 feet; thence North 85°51'40"  
West 117.18 feet; thence North  
62°54'04" West 235.48 feet; thence  
North 16°32'50" East 298.64 feet;  
thence North 36°32'52" West 61.03  
feet; thence North 75°44'01" West  
616.77 feet; thence North 75°46'56"  
West 34.36 feet to the west line of  
the Northwest Fractional Quarter of  
Section 1; thence North 01°56'07"  
West 134.08 feet along said section  
line to the point of beginning;  
containing 16.61 acres more or  
less.

and,  
Two parcels of land located in  
the Northwest Fractional Quarter  
of Section 1, Township 88 North,  
Range 3 West of the 5<sup>th</sup> P.M.,  
Delaware County, Iowa, as shown  
on the Acquisition Plat Exhibit "A-  
2", and by reference made a part  
hereof.

Said parcels are described as  
follows:

Commencing at the Northwest  
Corner of Section 1; thence South  
01°56'07" East 290.41 feet along  
the west line of the Northwest  
Fractional Quarter of Section 1

to the point of beginning; thence  
South 75°46'56" East 34.36  
feet; thence South 75°44'01"  
East 616.77 feet; thence South  
36°32'52" East 61.03 feet; thence  
South 16°32'50" West 298.64  
feet; thence North 70°48'42" West  
332.75 feet; thence North 82°19'32"  
West 258.50 feet to the west line of  
the Northwest Fractional Quarter of  
Section 1; thence North 01°56'07"  
West 352.04 feet along said section  
line to the point of beginning;  
containing 4.77 acres more or less.

And,

Commencing at the Northwest Corner of Section 1; thence South 01°56'07" East 854.31 feet along the west line of the Northwest Fractional Quarter of Section 1 to the point of beginning and the beginning of a 650.00 foot radius curve concave Southerly whose 325.27 foot chord bears South 81°02'35" East; thence Easterly along said curve an arc distance of 328.76 feet; thence South 65°05'00" East 194.93 feet; thence South 18°55'55" West 277.72 feet; thence South 23°26'48" West 295.00 feet; thence South 24°54'33" West 593.36 feet to the west line of the Northwest Fractional Quarter of Section 1; thence North 01°56'07" West 1204.96 feet along said section line to the point of beginning; containing 7.45 acres more or less.

The title in fee simple sought to be appropriated, for the use and benefit of the City of Dyersville, is in land described as follows:

A parcel of land located in the Northwest Fractional Quarter and in the Northeast Fractional Quarter of Section 1, Township 88 North, Range 3 West of the 5th P.M., Delaware County, Iowa, as shown on the Acquisition Plat

Exhibit "A-3", and by reference made a part hereof.

Said parcel is described as follows:

Commencing at the Northwest Corner of Section 1; thence South 01°56'07" East 642.45 feet along the west line of the Northwest Fractional Quarter of Section 1 to the Point of Beginning; thence South 82°19'32" East 258.50 feet; thence South 70°48'42" East 332.75 feet; thence South 62°54'04" East 235.48 feet; thence South 85°51'40" East 117.18 feet; thence North 51°27'42" East 81.76 feet; thence North 38°08'44" East 400.50 feet; thence North 54°57'09" East 141.49 feet; thence North 66°05'12" East 213.79 feet; thence North 69°12'36" East 401.83 feet; thence North 71°25'14" East 347.06 feet to the southerly right of way of Primary Road No. U.S. 20; thence North 88°27'03" East 1223.07 feet along said right of way; thence North 87°18'59" East 505.18 feet along said right of way to the east line of the Northwest Quarter of the Northeast Fractional Quarter of Section 1; thence South 02°12'41" East 135.56 feet along said section line; thence South 88°55'28" West 776.29 feet; thence North 89°29'22" West 535.84 feet; thence South 82°30'20" West 464.37 feet; thence South 67°47'35" West 823.03 feet; thence South 43°49'41" West 551.65

feet; thence South 49°08'28" West 147.83 feet; thence South 78°18'07" West 134.22 feet; thence South 88°09'21" West 128.91 feet; thence South 27°39'41" West 382.90 feet; thence South 22°12'19" West 692.33 feet to the beginning of a 965.00 foot radius curve concave easterly whose 415.62 foot chord bears South 11°00'39" West; thence southerly along said curve an arc distance of 418.91 feet; thence South 16°33'17" West 170.17 feet; thence South 14°08'38" West 119.21 feet to the west line of the Northwest Fractional Quarter of said Section 1; thence North 01°56'07" West 709.99 feet along said section line; thence North 24°54'33" East 593.36 feet; thence North 23°26'48" East 295.00 feet; thence North 18°55'55" East 277.72 feet; thence North 65°05'00" West 194.93 feet to the beginning of a 650.00 foot radius curve concave southerly whose 325.27 foot chord bears North 81°02'35" West; thence westerly along said curve an arc distance of 328.76 feet to the west line of the Northwest Fractional Quarter of said Section 1; thence North 01°56'07" West 211.86 feet along said section line to the Point of Beginning; containing 20.24 acres more or less.

In connection with this condemnation proceeding it is specifically provided as follows:

1. Any and all improvements, including buildings, fences or agricultural crops, if any, located

wholly within the land sought in fee simple title are condemned in their entirety.

2. The State of Iowa will construct an entrance at Sta. 11037+42 on the east side of local road 330<sup>th</sup> Avenue. The existing entrance at Sta. 1070+65.5 on the south side of Primary Road No. U.S. 20 will be closed and the entrance eliminated.

3. Any farm field drainage tile, or outlets, which are located within the land being acquired under this proceeding, and are damaged or destroyed by highway construction, shall be relocated, replaced or restored by the condemner and at no expense to the condemnee, and the State of Iowa shall have a right of temporary easement as necessary over condemnee's remaining property for the specific purpose of effecting such relocation, replacement or restoration.

4. The area sought to be appropriated by temporary easement, for the specific purpose of relocating, replacing, or restoring tile, if any, is reserved to the condemnee until the actual date said area is required for construction of this highway improvement. Also, said temporary easement right shall terminate immediately upon completion of the operations for which said right is sought and in no event later than the completion of this highway improvement.

5. Condemner hereby gives notice of condemnee's five-year right to renegotiate construction or maintenance damages not apparent at the time of the condemnation as required by the Code of Iowa, Section 6B.52.

That such condemnation is sought for the improvement and/or maintenance of roads and streets in the State of Iowa in the matter prescribed in Chapters 28E, 306, 306A, 306B, 306C, 313, 6A, and 6B of the Code of Iowa and all amendments thereto.

That a commission for the purpose of appraising and awarding damages which will be caused by said appropriation and condemnation has been selected and appointed.

You are further notified that the Commissioners will report to the Sheriff's Office in Manchester, Iowa, at 9:30 a.m. on the 15th day of October, 2014, and will view your property at approximately 10:00 a.m. on the same day. They will then return to the Sheriff's Office and proceed to appraise said damages. You may participate in these proceedings if you care to do so.

8/13-20-27