

#1163



MATT SCHULTZ
Secretary of State
State of Iowa

TRANSMITTAL FORM FOR CONDEMNATION APPLICATION -
Pursuant to Iowa Code sections 6B.3(3), 9.2A, and 331.602(24)



Box 1

TRANSMITTAL FORM FOR SHERIFF'S STATEMENT -
Pursuant to Iowa Code sections 6b.38, 9.2A, and 331.602(24)



Box 2

Part I: CONDEMNATION APPLICATION

Pursuant to Iowa Code section 6B.3(3), the undersigned County Recorder files a copy of the attached Condemnation Application with the Office of the Secretary of State, noting as follows.

1. The name of the acquiring agency is Benton County
2. The real property subject to the Application is located in Benton County.
3. The date the condemnation application was filed by the undersigned County Recorder is April month, 12 day, 2013 year.
4. The attached Condemnation Application is filed of record at Document # _____
Book 13, Page 1466

Leas S. Speidel
County Recorder for

Benton County

Part II: SHERIFF'S STATEMENT

Pursuant to Iowa Code section 6B.38, the undersigned County Recorder files a copy of the attached Sheriff's Statement with the Office of the Secretary of State, noting as follows.

1. The name of the acquiring agency is Benton County
2. The corresponding Condemnation Application to this Sheriff's Statement was filed of record at Document # _____, Book 13, Page 1466 and a copy was sent to the Secretary of State.
3. The attached Sheriff's Statement was filed of record at Document # _____
Book 13, Page 1488; on April month, 15 day, 2013 year.

Leas S. Speidel
County Recorder for

Benton County

*This document was
147 pages - just faxed over
1st page - if you need it all
let me know.*

PLEASE SUBMIT TO:

Secretary of State
Attention: Condemnation Filings
State Capitol, Des Moines, IA 50319
FAX: 515-242-5952

SEE INSTRUCTIONS ON BACK



MATT SCHULTZ
Secretary of State
State of Iowa

INSTRUCTIONS

for Filing CONDEMNATION APPLICATIONS
and SHERIFF'S STATEMENTS

1. All original Applications for Condemnation approved by the Chief Judge and filed with the County Recorder must be filed by the County Recorder with the Office of Secretary of State pursuant to Iowa Code § 6B.3(3).
2. After the Condemnation Application is recorded by your office, complete Part I of the Transmittal Form and FAX (or mail) the Application and the Form to the address at the bottom of the Form. Be sure to check Box 1 to indicate you are sending an attached Condemnation Application.
3. A copy of the Sheriff's Statement must be filed by the County Recorder with the Office of Secretary of State pursuant to Iowa Code § 6B.38.
4. When the Sheriff's Statement that corresponds to the previously filed Condemnation Application is recorded by your office, complete Part II of the Transmittal Form and FAX (or mail) the Statement and the Form to the address at the bottom of the Form. Be sure to check Box 2 to indicate you are sending an attached Sheriff's Statement.
5. Since the Sheriff's Statement is filed after the Condemnation Application, you may either complete Part II and resubmit the copy of the Transmittal Form that you used to file the corresponding Condemnation Application, or submit a new Transmittal Form with Part II completed.

PLEASE SUBMIT TO:

Secretary of State
Attention: Condemnation Filings
State Capitol, Des Moines, IA 50319

FAX: 515-242-5952



BENTON CO IA - LEXA S SPIDEL, RECORDER
Book: 13 Page: 1466
04/12/2013 04:03PM # Pages 11
DCD CONDEMNATION
Total Fees: \$0.00

IN THE IOWA DISTRICT COURT IN AND FOR BENTON COUNTY

| | |
|--|---|
| <p>IN THE MATTER OF THE CONDEMNATION OF LAND BY THE COUNTY OF BENTON FOR THE USE AND BENEFIT OF THE COUNTY OF BENTON</p> | <p>250008809 APPLICATION TO THE CHIEF JUDGE OF THE SIXTH JUDICIAL DISTRICT OF IOWA FOR THE APPOINTMENT OF A COMMISSION TO APPRAISE DAMAGES FOR CONDEMNATION</p> |
|--|---|

FILED
APR 19 2013
IOWA DISTRICT COURT
BENTON COUNTY IOWA
PM 3:31

TO: Patrick R. Grady, Chief Judge, Sixth Judicial District of Iowa

COMES NOW, Benton County, Iowa, pursuant to Section 306.28 and Chapter 6B of the Iowa Code and states the following to the Court in support of its application for the appointment of a commission to appraise damages for condemnation:

1. Real property situated in the NW 1/4 of Section 25 T83N R9W in the County of Benton, State of Iowa, and more particularly described as:

A. A temporary construction easement over part of Parcel A in the NW 1/4 NW 1/4 of Section 25, Township-83-North, Range-9-West of the 5th P.M., Benton County, Iowa per survey recorded in Book 10, Page 157 at the Benton County Recorder's Office further described as follows:

Commencing at the Northwest corner of said Section 25;

Thence N87°33'13"E along the North line of the NW 1/4 NW 1/4 of said Section 25, 60.00 feet;

Thence S01°46'40"E, 198.00 feet to the point of beginning;

Thence N87°33'13"E along a line parallel and 198.00 feet distant to the North line of the NW 1/4 NW 1/4 of said Section 25, 13.00 feet;

Thence S01°46'40"E along a line parallel and 73.00 feet distant to the West line of the NW 1/4 NW 1/4 of said Section 25, 149.73 feet;

Thence S88°13'20"W, 13.00 feet;

Thence N01°46'40"W along a line parallel and 60.00 feet distant to the West line of the NW 1/4 NW 1/4 of said Section 25, 149.58 feet to the point of beginning containing 0.04 acres (1,945 Sq. Ft.) more or less.

Subject to existing easements and restrictions of record

B. And acquisition over the West 60.00 feet of the NW 1/4 of Section 25, Township-83-North, Range-9-West of the 5th P.M., Benton County, Iowa

RECORDED
APR 19 2013 4:24
BENTON COUNTY RECORDER'S OFFICE
BENTON COUNTY, IOWA

2. That a copy of the Plat showing the location of the right-of-way or other property sought to be condemned for the temporary construction easement with respect to the above-described property is marked "Exhibit A" and is attached hereto and by this reference made a part hereof.
3. That a copy of the Plat showing the location of the right-of-way or other property sought to be condemned with reference to the above-described property is marked "Exhibit B" and is attached hereto and by this reference made a part hereof.
4. That the record of said property is Votroubek, Abney K. (NKA Abney K. Clark) and Clark Timothy N. at 3308 72nd Street, Atkins, Iowa 52206.
5. That the purpose for which condemnation is sought is to acquire a permanent easement for right-of-way for proposed widening and resurfacing on 33rd Avenue between 72nd Street and U.S. Highway 30 in Benton County, Iowa and will entail the installation of entrances, road slopes, roadway culverts, RCB's intakes, ditch work, channel slopes, rip rap, erosion control methods, and removal of tree(s); as a highway project it is not subject to Section 6B.2D of the Iowa Code. The proposed right-of-way for condemnation is contiguous to existing road right-of-way and necessary for the maintenance, safety improvement, or upgrade of the existing secondary road pursuant to Section 306.27 of the Iowa Code.
6. The land for which condemnation is sought is agricultural.
7. That a request is hereby made for the appointment of a commission to appraise damages.
8. That Benton County, Iowa is seeking to condemn for public improvement the minimum amount of land necessary to achieve the public purpose. That an Affidavit attached hereto by County Engineer Myron L. Parizek attests to that fact.
9. That Benton County, Iowa has been unable to secure the above-described property by purchase and conveyance. That Benton County, Iowa has negotiated in good faith with the owners to acquire the private property sought to be condemned. That commencing on or about January of 2012 the County Engineer placed an advertisement advising the public of a meeting scheduled for February 7, 2012 to inform the land owners and the public of the proposed widening project on 33rd Avenue between 72nd Street and U.S. Highway 30 in Benton County, Iowa. That the County Engineer sent a letter dated June 6, 2012 to the land owners inviting them to another public meeting concerning said road project. That the firm of Anderson-Bogert, acting on behalf of Benton County, Iowa performed an inspection of the property with property plats and a letter explaining the method used by the appraiser to determine value. That Benton County, Iowa has made multiple offers to the land owners which, have not been accepted and that Benton County met with the land owners on January 5, 2013 in another attempt to settle this matter.

That the owners Votroubek, Abney K., (NKA Abney K. Clark) and Clark, Timothy N. are not agreeable to continue negotiations regarding the purchase of their property according to the Board of Supervisors.

10. A list of the members of the Eminent Domain Compensation Commissioners of Benton County, Iowa is attached.

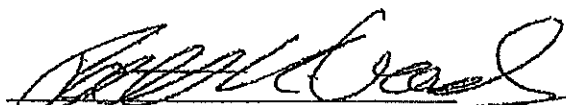
WHEREFORE, Benton County, Iowa requests the appointment of a Compensation Commission of six persons qualified as described in Iowa Case §6B.4 to review the described property and to appraise damages which the owner will sustain by reason of the appropriation herein described and to make their report in writing to the Benton County Sheriff as provided by law.

BENTON COUNTY, IOWA




DAVID C. THOMPSON
Benton County Attorney
Benton County Courthouse
Vinton, Iowa 52347

Filed in duplicate in my office at Colfax, Iowa, this 6th
day of February, 2013.



Patrick R. Grady
Chief Judge, Sixth Judicial District of Iowa

The undersigned hereby certifies that this document is a true and correct original of the Application for Condemnation filed and approved by the Chief Judge of the Sixth Judicial District of Iowa on February 6, 2013.



DAVID C. THOMPSON
Benton County Attorney

IN THE IOWA DISTRICT COURT IN AND FOR BENTON COUNTY

| | |
|---|--|
| IN THE MATTER OF THE CONDEMNATION OF LAND BY THE COUNTY OF BENTON FOR THE USE AND BENEFIT OF THE COUNTY OF BENTON | COURT OF DISTRICT CLERK BENTON COUNTY, IOWA AFFIDAVIT 2013 FEB - 8 10 42 AM BENTON CO., IOWA |
|---|--|

STATE OF IOWA)
) SS:
 BENTON COUNTY)

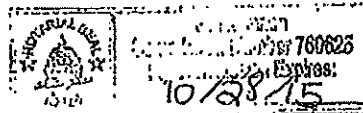
I, Myron L. Parizek, Benton County Engineer, being first duly sworn on oath, do hereby swear that the amount of land listed in the attached Application to the District Court is the minimum amount of land necessary to achieve the public purpose and that the amount of land to be acquired by condemnation for the public improvement of 33rd Avenue between 72nd Street and U.S. Highway 30 in Benton County, Iowa. The proposed right-of way for condemnation is contiguous to existing road right-of-way and necessary for the maintenance, safety improvement, or upgrade of the existing secondary road pursuant to Section 306.27 of the Iowa Code. This is based on my experience and training and after a thorough examination of the project.

Dated this 4th day of February, 2013.

Myron L. Parizek
 Myron L. Parizek
 Benton County Engineer

Subscribed and sworn to before me this 4th day of February, 2013.

JO KUENNEN
 Notary Public in and for the State of Iowa



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TEMPORARY CONSTRUCTION EASEMENT EXHIBIT

PART OF PARCEL A IN THE NW1/4 NW1/4 OF SECTION 25, TOWNSHIP-83-NORTH, RANGE-9-WEST OF THE 5TH P.M., BENTON COUNTY, IOWA

Prepared by R. Rodney Kizza Anderson Bogert Engineers & Surveyors, Inc.
4001 River Ridge Dr. N.E. Cedar Rapids, Iowa 52402

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2013 APR -9, P 10:24
SURVEYOR'S OFFICE
BENTON CO., IOWA



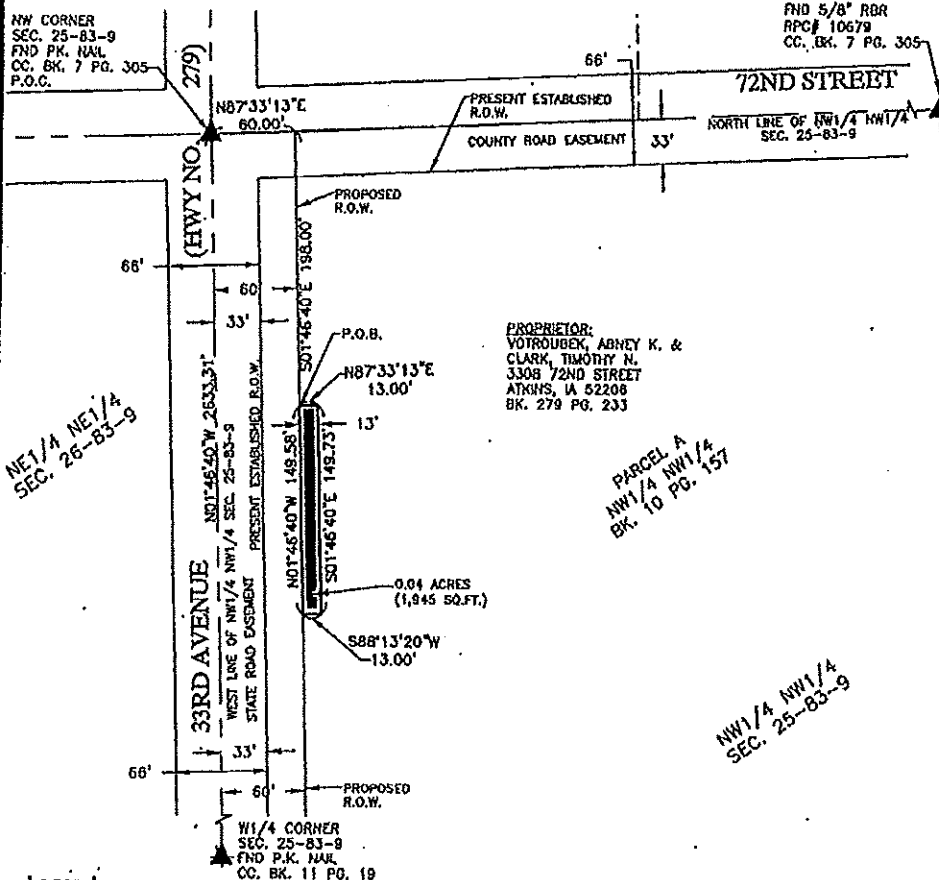
Legal Description

A TEMPORARY CONSTRUCTION EASEMENT OVER PART OF PARCEL A IN THE NW1/4 NW1/4 OF SECTION 25, TOWNSHIP-83-NORTH, RANGE-9-WEST OF THE 5TH P.M., BENTON COUNTY, IOWA PER SURVEY RECORDED IN BOOK 10, PAGE 157 AT THE BENTON COUNTY RECORDER'S OFFICE FURTHER DESCRIBED AS FOLLOWS:

- COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 25;
- THENCE N87°33'13"E ALONG THE NORTH LINE OF THE NW1/4 NW1/4 OF SAID SECTION 25, 60.00 FEET;
- THENCE S01°46'40"E, 198.00 FEET TO THE POINT OF BEGINNING;
- THENCE N87°33'13"E ALONG A LINE PARALLEL AND 198.00 FEET DISTANT TO THE NORTH LINE OF THE NW1/4 NW1/4 OF SAID SECTION 25, 13.00 FEET;
- THENCE S01°46'40"E ALONG A LINE PARALLEL AND 73.00 FEET DISTANT TO THE WEST LINE OF THE NW1/4 NW1/4 OF SAID SECTION 25, 149.73 FEET;
- THENCE S88°13'20"W, 13.00 FEET;
- THENCE N01°48'40"W ALONG A LINE PARALLEL AND 60.00 FEET DISTANT TO THE WEST LINE OF THE NW1/4 NW1/4 OF SAID SECTION 25, 149.68 FEET TO THE POINT OF BEGINNING CONTAINING 0.04 ACRES (1,945 SQ.FT.) MORE OR LESS.

- NOTES:
1. DISTANCES ARE IN FEET AND DECIMALS THEREOF.
 2. BEARINGS HEREON ARE BASED UPON IOWA STATE PLANE NAD 83 NORTH ZONE.
 3. TEMPORARY EASEMENT WILL EXPIRE UPON COMPLETION OF CONSTRUCTION AND ACCEPTANCE BY BENTON COUNTY.

SUBJECT TO EXISTING EASEMENTS AND RESTRICTIONS OF RECORD.



PROPRIETOR:
VOTROUBEK, ABNEY K. &
CLARK, TIMOTHY N.
3308 72ND STREET
ATKINS, IA 52206
BK. 279 PG. 233

Legend

- Boundary Line —————
- Adjoining Lot Line - - - - -
- Section Line - - - - -
- Building Setback Line ·······
- Found 1/2" Iron Rod •
- Set 3/4"x30" Rebar w/Yellow Cap (#4809) ○
- Set Section/Quarter Corner ▲
- Found Section/Quarter Corner ▲
- Measured (M)
- Recorded (R)

"EXHIBIT A"

TEMPORARY CONSTRUCTION EASEMENT EXHIBIT
Project Number: 211040

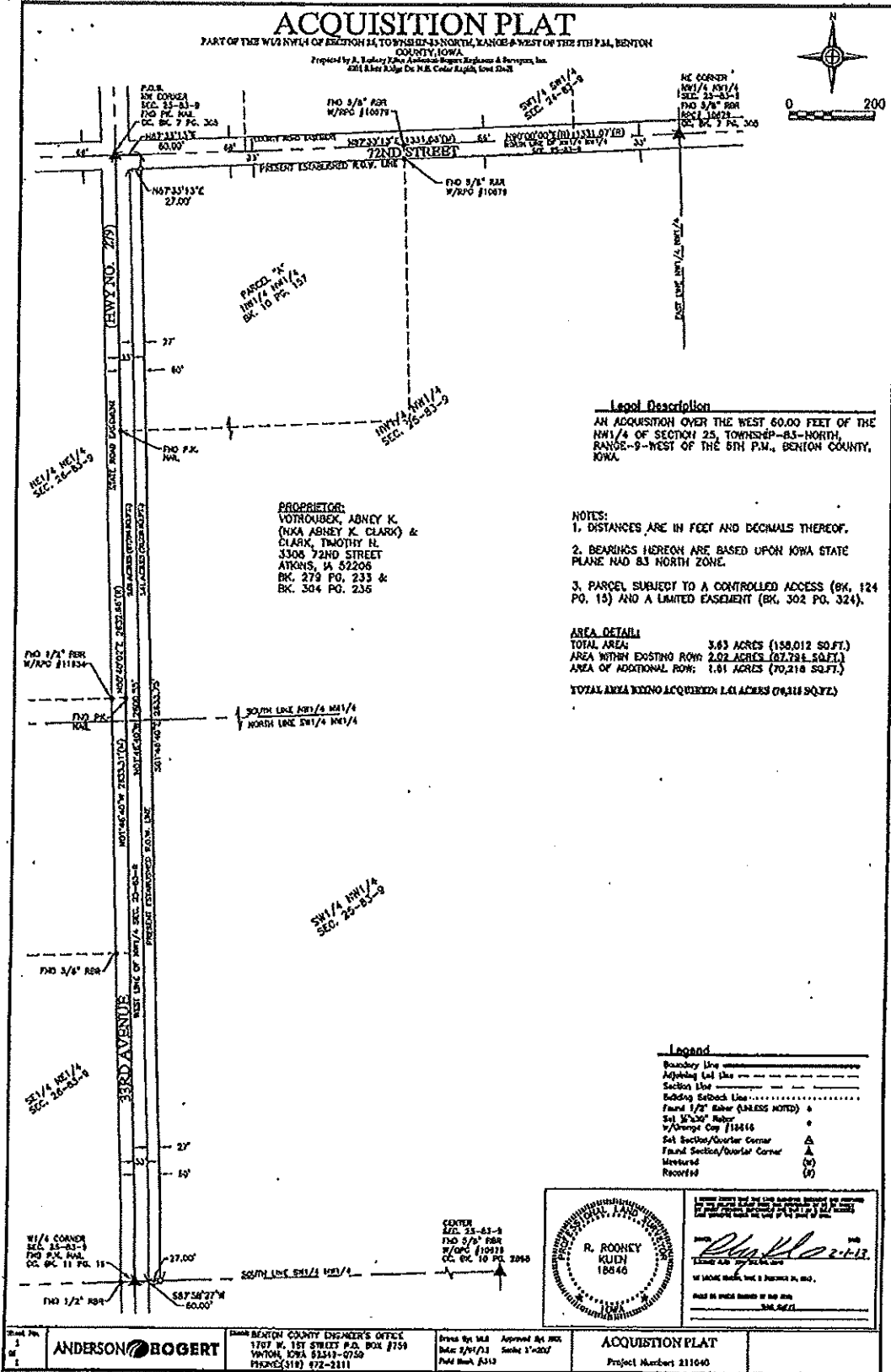
Drawn By: MJS
Date: 2/01/13
Field Book #313

Checked: BENTON COUNTY ENGINEER'S OFFICE
1707 W. 1ST STREET P.O. BOX #759
VANTON, IOWA 52349-0759
PHONE:(319) 472-2211

ANDERSON BOGERT

Sheet No.
1
of
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T:\ACAD\211040\dwg\easement plats.dwg 2-01-13 02:08:46 PM rrk307



"EXHIBIT B"

FILED
2013 FEB - 8 PM 3:50
CLERK DISTRICT COURT
SENIOR CLERK, IOWA

EMINENT DOMAIN COMPENSATION COMMISSION

This commission consists of not less than twenty-eight (28) residents of the County who are placed on a list and are eligible to serve as a member of a compensation commission. One-fourth are owner-operators of agricultural property, one-fourth are owners of city property, one-fourth are persons having knowledge of or are real estate brokers, one-fourth are persons having knowledge of property values in the County by reason of their occupation, such as bankers, property appraisers and auctioneers. The Chief Judge of the Judicial District selects by lot persons from the list to assess damages to all property taken by right of eminent domain. Appointments are annual and are made in January of each year.

FARMERS, OWNER-OPERATORS

| | | |
|---|---------------|--------------|
| Bonnie Sanders 2449 63 rd St Vinton, IA 52349 | 319 472- 4121 | January 2013 |
| Elaine Harrington 2725 77 th St Dr Watkins, IA 52354 | 319 227-7868 | January 2013 |
| (John) David Rhinehart 3227 58 th St Dr Vinton, IA 52349 | 319 453- 2816 | January 2013 |
| Denise Wiley 5067 29 th Ave Walker, IA 52352 | 319 443-0515 | January 2013 |
| John Elwick 1702 E 5 th St Vinton, IA 52349 | 319 472-4917 | January 2013 |
| Wayne Riley 3187 79 th St Norway, IA 52354 | 319 227-7618 | January 2013 |
| Todd Hennings 1081 69 th St Elberon, IA 52225 | 319 439-5428 | January 2013 |

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CLERK DISTRICT COURT
SENIOR CLERK, IOWA
JAN 20 2013

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LICENSED REAL ESTATE SALESPERSONS

| | | |
|---|--------------|--------------|
| Denise Weeda 102 14 th St Belle Plaine, IA 52208 | 319 444-2874 | January 2013 |
| Gloria Feuerbach 108 3 rd Ave, PO Box 237 Keystone, IA 52249 | 319 442-3297 | January 2013 |
| Shannon Feuerbach 1443 69 th St Keystone, IA 52249 | 319 442-5262 | January 2013 |
| Marion Schminke 216 W 4 th St Vinton, IA 52349 | 319 472-3522 | January 2013 |
| Carmie Behrens 1933 59 th St Vinton, IA 52349 | 319 472-3896 | January 2013 |
| Kathy Tranel 1515 E Ave Vinton, IA 52349 | 319 472-5637 | January 2013 |
| Wayne Siela 5757 22 nd Ave Dr Vinton, IA 52349 | 319 472-4949 | January 2013 |
| Danny Kaestner 7025 30 th Ave Atkins, IA 52206 | 319 446-7558 | January 2013 |

OWNERS - CITY PROPERTY

| | | |
|--|--------------|--------------|
| Jeff Kelly 103 Elm St Van Horn, IA 52346 | 319 228-8350 | January 2013 |
| Connie Ogier 1002 3 rd Ave Vinton, IA 52349 | 319 472-3316 | January 2013 |
| Lloyd Benson 1201 South St Urbana, IA 52345 | 319 443-2233 | January 2013 |
| Kathy Van Steenhuyse 1502 A Ave Vinton, IA 52349 | 319 472-4697 | January 2013 |
| Janice Elred PO Box 126 Urbana, IA 52345 | 319 443-2511 | January 2013 |
| Larry Weeda 102 14 th St Belle Plaine, IA 52208 | 319 444-2874 | January 2013 |
| Darold Sindt 309 3 rd Ave Keystone, IA 52249 | 319 442-3662 | January 2013 |

BANKERS, AUCTIONEERS, APPRAISERS, PROPERTY MANAGERS

| | | |
|--|--------------|--------------|
| Dave Coulter 5845 18 th Ave Garrison, IA 52229 | 319 477-6762 | January 2013 |
| Melissa McBride 6273 25 th Ave Vinton, IA 52349 | 319 472-5733 | January 2013 |
| Jeff Geiger 5464 24 th Ave Vinton, IA 52349 | 319 472-3642 | January 2013 |
| Carol Goodchild 504 7 th St Van Home, IA 52346 | 319 228-8542 | January 2013 |
| Kristina Kremer 701 W 18 th St Vinton, IA 52349 | 319 472-4549 | January 2013 |
| Harold Knaack Jr 1843 65 th St Garrison, IA 52229 | 319 442-3195 | January 2013 |
| Roger Schlarbaum 139 Scenic Dr Vinton, IA 52349 | 319 472-2301 | January 2013 |

EQCV008509

NOTICE OF MEETING OF THE COMPENSATION COMMISSION

In the Matter of the condemnation
Of Certain Rights In Land by
Benton County, Iowa, for the
Improvement of a Project
Located in NW 1/4 of Section 25 T83N
R9W in the County of Benton, State of Iowa.

FILED
2013 FEB - 8 PM 3:19
CLERK DISTRICT COURT
BENTON COUNTY, IOWA

Project No. HRRR-C006(76)-5R-06

It is hereby ordered that the Compensation Commission shall meet at the undersigned's office of the Sheriff at 113 E Third Street, Vinton, Iowa, Benton County, State of Iowa on the 15TH, day of MARCH, 2013, at 8:30 o'clock a. m for the purpose of qualifying said Commission. The Compensation Commission shall then proceed to view said premises and make an award of damages as provided by law.


Randall Forsyth
Benton County Sheriff

RECEIVED
2013 FEB - 8 PM 14:28
SHERIFF'S OFFICE
BENTON CO., IOWA



BENTON CO IA- LEXA S SPEIDEL, RECORDER
Book: 13 Page: 1488
04/15/2013 8:10:43AM # Pages147
DCD CONDEMNATION
Total Fees: \$0.00 Transfr Tax: \$30.40

Sheriff
Randall L. Forsyth
113 E. 3rd Street
Vinton, Iowa 52349-1756

Office (319) 472-2337
Fax (319) 472-4770
sheriff@bentonsheriff.com

Chief Deputy
Michael Ferguson

| | |
|--|----------------------------|
| IN THE MATTER OF THE CONDEMNATION) | SHERIFF'S FILING OF RECORD |
| OF CERTAIN REAL ESTATE FOR THE) | AFTER RECEIVING NOTICE |
| IMPROVEMENT OF A PROJECT LOCATED) | OF APPEAL. |
| IN NW ¼ OF SECTION 25 T83N R9W, BENTON) | |
| COUNTY, IOWA) | |
| Project No. HRRR-C0006(76)-5R-06) | |
| Parcel No. R.O.W.4 and T.E.4) | |
|) | |
| Benton County, Iowa, Condemner) | |
|) | |
| WITH) | |
|) | |
| Timothy Clark and) | |
| Abney Clark, Condemnees) | |
|) | |
| TO: Benton County Recorder | |

Please find attached the following papers regarding the above-described Condemnation proceedings which was held in my office on the 15th day of, March, 2013:

A certified copy of the Application for Condemnation.
All notices, together with all returns of services endorsed.
The Report of the Commissioners.
All other papers filed with the Sheriff in these proceedings.

I further certify that I have or had in my possession payable to the above named Condemnees:

Warrant #204483 in the amount of \$19,325.00. Date Claimed: Appeal Filed-Turned over to Clerk

The Application for Condemnation was filed with your office on the 12th day of April,
2013 in volume 13 on page 1466.

This filing is being done pursuant to Section 6B.35, Code of Iowa.

Randall L. Forsyth, Sheriff
Benton County, Iowa

By: Karen A. Wittke

Date: 4-1-13