



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.3B, 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 CITY OF IOWA CITY
2. The real property subject to the Application is located in JOHNSON County.
3. The date the condemnation application was filed by the undersigned County Recorder is JUNE month, 17 day, 2013 year.
4. The attached Condemnation Application is filed of record at Document # -
Book 5108, Page 921.

Kimberly A. Parker
County Recorder for

JOHNSON County

Part II: SHERIFF'S STATEMENT

Pursuant to Iowa Code section 6B.3B, 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 _____
2. The corresponding Condemnation Application to this Sheriff's Statement was filed of record at Document # _____, Book _____, Page _____ and a copy was sent to the Secretary of State.
3. The attached Sheriff's Statement was filed of record at Document # _____, Book _____, Page _____; on _____ month, _____ day, _____ year.

County Recorder for

County

PLEASE SUBMIT TO:
Secretary of State
Attention: Condemnation Filings
State Capitol, Des Moines, IA 50319
FAX: 615-242-5952

SEE INSTRUCTIONS ON BACK



Doc ID: 022070850017 Type: GEN
Kind: CONDEMNATION
Recorded: 06/17/2013 at 11:14:55 AM
Fee Amt: \$92.00 Page 1 of 17
Revenue Tax: \$0.00
Johnson County Iowa
Kim Painter County Recorder

BK 5108 PG 921-937

FEE

Recorder's Cover Sheet

TITLE OF DOCUMENT: APPLICATION FOR CONDEMNATION
NCS Pearson, Inc. (Moss Ridge Road Project)

Preparer Information:
(name, address, phone number)
Sara Greenwood Hektoen
Assistant City Attorney
410 East Washington Street
Iowa City, IA 52240

Taxpayer Information:
(name, address)

Return Address:
(name, address)
City Attorney's Office
410 East Washington Street
Iowa City, IA 52240

Grantor(s):

Grantee(s):

Legal description: A tract of land located in the Southwest Quarter of Section 36,
(or page number location) Township 80 North, Range 6 West, Iowa City, Johnson County,
Iowa.

IN THE SHERIFF'S OFFICE OF JOHNSON COUNTY, IOWA

IN THE MATTER OF)
 THE CONDEMNATION OF)
 CERTAIN RIGHTS IN LAND FOR)
 USE IN THE MOSS RIDGE ROAD)
 PROJECT)
)
 Property Owner:)
 NCS Pearson, Inc.)
)
 by the)
)
 CITY OF IOWA CITY, IOWA,)
)
 Applicant.)

APPLICATION FOR
CONDEMNATION

TO: PATRICK R. GRADY, CHIEF JUDGE, SIXTH JUDICIAL DISTRICT

YOU ARE HEREBY NOTIFIED that the Applicant City of Iowa City, Iowa, a municipal corporation, desires to take, acquire and condemn a fee simple interest, permanent easement interest and temporary easement interests in the properties hereafter described, together with any and all leasehold interests, easement interests and other legal or equitable interests therein, and together with all structures and appurtenances located upon the properties sought to be condemned. The City of Iowa City desires the rights specified in the properties sought to be condemned for use for the MOSS RIDGE ROAD PROJECT.

1. PROPERTY TO BE ACQUIRED; PUBLIC USE OR PURPOSE FOR THE TAKING.
 - A. FEE SIMPLE INTEREST. The property in which the City seeks to acquire a fee simple interest for the MOSS RIDGE ROAD PROJECT is shown and legally described on the attached acquisition plat. Said Acquisition Plat is marked Exhibit "A" and by this reference made a part hereof. The fee simple interest in Exhibit "A" will be used by the City of Iowa City

for the public purpose of constructing, repairing, maintaining, and using certain street, storm sewer, sanitary sewer and/or water main, and related public improvements to be constructed in conjunction with the MOSS RIDGE ROAD PROJECT.

The parcel depicted in Exhibit "A" is legally described as a tract of land located in the Southwest Quarter of Section 36, Township 80 North, Range 6 West.
PROPERTY ADDRESS: 2510 North Dodge Street, Iowa City, IA

B. PERMANENT EASEMENT INTEREST. The property in which the City seeks to acquire a permanent easement interest for the MOSS RIDGE ROAD PROJECT is shown and legally described on the attached permanent easement plat. Said permanent easement plat is marked Exhibit "B" and by this reference made a part hereof. The said permanent easement interest in Exhibit "B" will be used by the City of Iowa City for the public purpose of excavating for and installing, constructing, operating, maintaining, using and reconstructing a storm sewer for the conveyance of storm water, and all necessary appliances and fittings for use in connection with said public improvement, together with adequate protection thereof and also a right-of-way with right of ingress and egress thereto, over, through and across the permanent easement area and public improvements to be constructed in conjunction with the MOSS RIDGE ROAD PROJECT.

The parcel depicted in Exhibit "B" is legally described as a tract of land located in the Southwest Quarter of Section 36, Township 80 North, Range 6 West.
PROPERTY ADDRESS: 2510 North Dodge Street, Iowa City, Iowa

1. In connection with this condemnation of the permanent storm sewer and drainage easement, it is specifically provided as follows:

a. This permanent storm sewer and drainage easement is being condemned for the purpose of excavating for and installing, constructing, operating, maintaining, using and reconstructing a storm sewer in connection with CITY's MOSS RIDGE ROAD PROJECT and also a right-of-way with right of ingress and egress thereto over, through and across the permanent easement area.

b. CITY shall have the following rights in connection with the above uses:

i. The right of grading the Easement Area for the full width thereof, and the right to extend the cuts and fills for such grading into and on said Easement Area.

ii. The right, from time to time, to trim and cut down and clear away all trees and brush on the Easement Area which now or hereafter, in the opinion of CITY, may be a hazard to said Easement Area, or which may interfere in any manner with CITY's exercise of its rights herein.

iii. The right to enter onto land beyond the Easement Area and conduct emergency repair which may extend minimally beyond the Easement Area, without obtaining a separate temporary easement. CITY's right to do such work shall be effective only upon CITY's prior notice to OWNER, and with minimal disruption of area. In the event of such emergency repair, CITY agrees to restore said area substantially to its prior condition, as set forth in Paragraphs c and d below.

c. CITY shall promptly backfill any trench made by it, and repair any damages caused by CITY within the Easement Area, including any damages by virtue of future excavation or use of the Easement Area, but excluding the replacement of trees, shrubs and brush on the Easement Areas. CITY shall indemnify OWNER against loss or damage which occurs as a result of CITY's negligent acts or omissions in the exercise of its easement rights herein. Once the Easement Area has been completely restored as set forth above and except as expressly provided herein, CITY shall have no responsibility for maintaining the Easement Area.

d. CITY shall remove and stockpile existing topsoil from areas to be excavated; and that following installation of the Project, all areas within the Easement Area which are disturbed shall have stockpiled topsoil respread and seeded within a reasonable time after construction is complete and the Easement Area restored substantially to its original condition with the exception of the replacement of trees, shrubs, and brush.

C. TEMPORARY CONSTRUCTION EASEMENT INTERESTS. The properties in which the City seeks to acquire temporary construction easements for the MOSS RIDGE ROAD PROJECT as shown and legally described on the attached temporary construction easement plats. Said temporary easement plats are marked Exhibits "C" and "D" and by this reference made a part hereof. The said temporary easement interests shown in Exhibits "C" and "D" will be used by the City of Iowa City for the public purpose of facilitating CITY's construction of the MOSS RIDGE ROAD PROJECT.

The parcel depicted in Exhibits "C" and "D" are legally described as tracts of land located in the Southwest Quarter of Section 36, Township 80 North, Range 6 West.

PROPERTY ADDRESS: 2510 North Dodge Street, Iowa City, IA

1. In connection with this condemnation of temporary construction easements, it is specifically provided as follows:

a. These temporary construction easements are being condemned for the purpose of facilitating CITY's construction of the MOSS RIDGE ROAD PROJECT, which grant to CITY shall include necessary grading, excavation, piling of dirt, regrading, restoration, storage of materials and equipment, and ingress and egress of persons and equipment to the Temporary Easement Areas, as needed to complete the Project.

b. The areas sought to be condemned for the temporary construction easements are reserved to the Condemnee until the date the area is actually required for construction of the Project. Said temporary easements shall terminate upon completion of the Project, but in no event shall the temporary construction easements extend beyond two (2) years from the date CITY commences construction of the Project.

c. With respect to the Temporary Construction Easements, CITY shall have the following rights and obligations:

i. CITY shall have the right to make excavations within the Temporary Easement Areas, and to grade as CITY may find reasonably necessary for the construction. CITY covenants and agrees to protect such excavations during construction; to promptly fill said excavations following construction; and to hold OWNER harmless from third party liability during said construction.

ii. CITY shall promptly backfill any trench made by it, and repair any damages caused by CITY within the Temporary Easement Areas, but excluding the replacement of trees, shrubs and brush on the Easement Areas. CITY shall indemnify OWNER against loss or damage which occurs as a result of CITY's negligent acts or omissions in the exercise of its easement rights herein. Once the Temporary Easement Areas have been restored to substantially their prior condition and except as expressly provided in this Temporary Easement Agreement, CITY shall have no further responsibility for maintaining the Temporary Easement Areas.

iii. CITY shall have the right of ingress and egress to and from the Temporary Easement Areas by such route within the Temporary Easement Areas as shall occasion the least practical damage and inconvenience to OWNER.

iv. CITY shall have the right to trim or remove all trees and brush which may interfere with the exercise of CITY's rights pursuant to this Temporary Easement Agreement.

d. Existing driveways, fences, underground drainage tile or other site features, with the exception of trees, shrubs and brush, which are removed or disturbed shall, to the extent reasonably possible, be replaced by CITY to conform with features or items removed during construction. CITY further agrees that all grassed areas disturbed by the construction shall be seeded within a reasonable time after construction is complete.

e. CITY covenants and agrees to remove and stockpile existing topsoil from areas to be excavated, to be used in the event of any repair. Following installation of the Project, all areas within the Temporary Easement Areas which are disturbed will be graded to form a uniform slope, and topsoil shall be replaced and respread over disturbed areas, thereby restoring said areas substantially to their prior condition, with the exception of the replacement of trees, shrubs and brush.

2. NAMES OF RECORD OWNERS AND HOLDERS OF LIENS AND ENCUMBRANCERS OF THE PROPERTY.

The names and addresses of all record owners and holders of liens and encumbrancers with respect to Exhibits "A", "B", "C", and "D", as far as shown, are as follows:

A. TITLEHOLDERS:

NCS Pearson, Inc.
2510 North Dodge Street
Iowa City, IA 52245

B. LIENHOLDERS, ENCUMBRANCERS, LEASEHOLDERS, EASEMENT HOLDERS AND OTHERS:

Johnson County, Iowa
c/o Johnson County Auditor
County Administration Building
913 South Dubuque Street
Iowa City, IA 52240

Johnson County, Iowa
c/o Johnson County Treasurer
County Administration Building
913 South Dubuque Street
Iowa City, IA 52240

3. LANDS NECESSARY TO ACHIEVE THE PUBLIC PURPOSE AND LANDS PROPOSED TO BE ACQUIRED FOR THE PROJECT.

The fee simple parcel in Exhibit "A", the permanent easement interest in Exhibit "B", and the temporary construction easement interests in Exhibits "C" and "D" are required by the City of Iowa City for the public purpose of constructing, repairing, maintaining, and using certain street, storm sewer, sanitary sewer and/or water main, and related public improvements to be constructed in conjunction with the MOSS RIDGE ROAD PROJECT. The City further asserts that said interests constitute the necessary minimum amount of and interests in land to achieve the purpose herein identified, and that no portion of said parcels is being acquired as an uneconomic remnant.

4. GOOD FAITH EFFORTS MADE BY THE CITY TO NEGOTIATE THE PURCHASE OF THE PROPERTY.

The City represents and warrants that it has undertaken the following activities in attempting to negotiate the purchase of the interests in Exhibits "A", "B", "C", and "D" from the property owner:

a. On February 5, 2013, the Iowa City City Council considered commencement of the MOSS RIDGE ROAD PROJECT and the proposed acquisition of properties for said project, and thereafter adopted Resolution No. 13-37, declaring the City's intent to proceed with and authorizing the acquisition of property rights for the project, including the property interests identified above, and authorizing and directing the City Manager or designee, in consultation with the City Attorney's office, to establish, on behalf of the City, an amount the City believes to be just compensation for the property to be acquired, and to make an offer to purchase the property for the established fair market value.

b. The City subsequently hired a licensed appraisal firm for the MOSS RIDGE ROAD PROJECT (Commercial Appraisers of Iowa Inc., of West Des Moines, Iowa) to

appraise and determine the fair market value of the property interests identified above to be acquired from the owner identified above.

c. On March 8, 2013, the Iowa City Attorney's Office mailed to the property owner's attorney an offer to purchase the above identified interests in Exhibits "A", "B", "C" and "D" for the MOSS RIDGE ROAD PROJECT at the fair market value thereof, as set forth in the appraisal and as established by the City Council, together with a copy of the appraisal. The offer was also accompanied by a cover letter offering to meet with the property owner and its attorney. The City Attorney's Office and City's Project Engineer have had numerous conversations with the property owner's attorney. To date, the City has been unable to negotiate acquisition of the property interests described above from the owner thereof named above.

NOW, THEREFORE, pursuant to a regularly adopted resolution by the City Council of the City of Iowa City, **YOU ARE HEREBY REQUESTED** to appoint a Compensation Commission to appraise the damages caused by this appropriation; said Commission to consist of six commissioners who shall be residents of Johnson County, Iowa.

YOU ARE FURTHER REQUESTED to give written notice to the City of Iowa City, Iowa as soon as the commissioners have been appointed.

Dated May 31, 2013.

CITY OF IOWA CITY, IOWA

By: Sara Greenwood Hektoen
Sara Greenwood Hektoen ATT0002914
Assistant City Attorney
410 E Washington Street
Iowa City, IA 52240
319.356.5030
319-356-5008 Fax
icattorney@iowa-city.org

APPROVED June 5, 2013 (Date)

[Signature]
Chief Judge, Sixth Judicial District

In accord with Iowa Code Section 6B.3(7), I, the undersigned, certify under penalty of perjury and pursuant to the laws of the State of Iowa that this Original Application for Condemnation has been approved by the Chief Judge of the Sixth judicial District.

Sara Greenwood Hektoen
Sara Greenwood Hektoen ATT0002914
Assistant City Attorney
City Iowa City, Iowa

Filed in my office at Iowa City, Iowa, on _____, 2013.

Sheriff of Johnson County, Iowa