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MICKI UTSLER
RECORDER
MADISON COUNTY, IOWA

Mark Nitchals
City of Winterset
101 E. Jefferson
Winterset IA 50273

CERTIFICATION

The undersigned, the duly appointed and acting City Administrator of the City of Winterset, Iowa, does hereby certify the following described documents as true and authentic copies of the official records in the custody of the Office of Clerk of the City of Winterset, Iowa.


1. Resolution Authorizing Mailing and Publication of Notice of Intent to Commence Public Improvement Project to Construct the Mills Street Storm Sewer Improvement Project and to Acquire Property for the Project; and Setting Date of Public Hearing
2. Affidavit of Publication from the Winterset Madisonian for the Notice of Intent to Commence a Public Improvement Project to Construct the Mills Street Storm Sewer Project and to Acquire Property for the Project.
3. Resolution Authorizing the Mills Street Storm Sewer Project and Acquisition of Easements.
4. Utility Line Easement granted by Gary W. Emmert and Nancy T. Emmert to the City of Winterset.

The undersigned further certifies the Resolutions described above were duly passed by the Council and approved by the Mayor on the dates shown thereon.

The undersigned further certifies the Notice of Intent was duly and timely published by the Madisonian in accordance with the Affidavit attached hereto.

Dated on this 8th day of November, 2001, at Winterset, Iowa.





Mark Nitchals
City Administrator
City of Winterset, Iowa

RESOLUTION NO. 2001-115

RESOLUTION AUTHORIZING MAILING AND PUBLICATION OF
NOTICE OF INTENT TO COMMENCE PUBLIC IMPROVEMENT PROJECT
TO CONSTRUCT THE MILLS STREET STORM SEWER IMPROVEMENT PROJECT AND TO
ACQUIRE PROPERTY FOR THE PROJECT;
AND SETTING DATE OF PUBLIC HEARING

WHEREAS, under the provisions of Section 6B.2B of the Iowa Code, a governmental body which proposes to acquire property under power of an eminent domain for a public improvement project is required to give notice of intent to commence the project to all property owners whose properties may be acquired in whole or in part for the project; and

WHEREAS, the City Council has proposed a project to be known as the Mills Street Storm Sewer Improvement Project; and

WHEREAS, the Project Engineer has prepared a plat which shows the proposed improvement in concept and identifies the proposed properties with any potential for any form of right-of-way activity; i.e. construction easements, permanent easements, and fee takings; and

WHEREAS, before the City of Winterset can proceed with this project, the City Council must:

- (1) Hold a public hearing, providing the opportunity for public input on the question of proceeding with the public improvement and on the acquisition or condemnation of properties and property interests for the project; and
- (2) Adopt a resolution a) approving the project, b) authorizing design of the improvements, and c) authorizing the acquisition of the properties and property interests required for the project by negotiation or condemnation.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WINTERSET, IOWA:

That the attached plat for said improvement to be known as the Mills Street Storm Sewer Improvement Project prepared by the Project Engineer showing the proposed improvement in concept and identifying the proposed properties with any potential for any form of right-of-way activity; i.e. construction easements, permanent easements, and fee takings, be and is hereby received and put on file for public inspection.

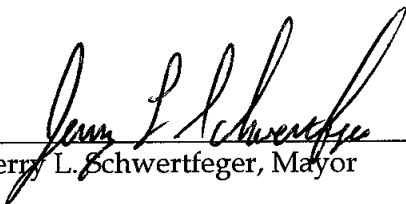
BE IT FURTHER RESOLVED, that this Council shall meet at 7:00 o'clock p.m. on October 15, 2001 in the City Hall in Winterset, Iowa for the purposes of:

- (1) Holding the public hearing, providing the opportunity for public input on the question of proceeding with the public improvement and on the acquisition or condemnation of property for the project, and
 - (2) Adopting a resolution a) approving the project, b) authorizing design of the improvements,
-

and c) authorizing the acquisition of the properties and property interests required for the project by negotiation or condemnation.

BE IT FURTHER RESOLVED that the City Administrator is hereby instructed to cause notice to be published and mailed as required by law of the pendency of this resolution and of the time and place of the hearing at which persons interested in the proposed project may present their views regarding the project and regarding the acquisition of property for the project, which Notice of Intent shall be in the form prescribed by law.

Passed and Approved this 1st day of October, 2001.



Jerry L. Schwertfeger, Mayor

Attest:



Mark Nitchals, City Administrator

AFFIDAVIT OF PUBLICATION

STATE OF IOWA
SS.
Madison County

TED GORMAN BEING DULY SWORN
SAYS HE IS PUBLISHER OF THE
WINTERSET MADISONIAN, a once weekly
newspaper of general circulation,
published in Winterset, Iowa, and that
the notice, a copy which is annexed and
made part hereof, was correctly published
in said newspaper for the period of
One consecutive weeks, the last
publication thereof being

on the 10th day of October, 2001.

Ted Gorman

Subscribed and sworn to before me this

10th day of October, 2001.

Raye Delynne Cook

NOTARY PUBLIC
In and for Madison County

Fee \$ 59.35



NOTICE OF INTENT TO COMMENCE A PUBLIC IMPROVEMENT PROJECT TO CONSTRUCT THE MILLS STREET STORM SEWER IMPROVEMENT PROJECT AND TO ACQUIRE PROPERTY FOR THE PROJECT

To: Bussanmas Inc.

Lester P. Matlage Jr. & Sheryl Matlage
Gary & Nancy Emmert

1. DESCRIPTION OF THE PROJECT; INTENDED USE OF PRIVATE PROPERTY TO BE ACQUIRED.

NOTICE IS HEREBY GIVEN to the above identified property owners that the City Council of the City of Winterset will consider authorizing the commencement of a project to construct the Mills Street Storm Sewer Improvement Project.

Properties acquired for the project will be used for storm sewer easement.

2. PRIVATE PROPERTY MAY BE ACQUIRED BY PURCHASE OR CONDEMNATION.

If the above described project is approved by the City Council, the City will be required to acquire property for the project improvements. Upon review of Madison County property records, it appears that properties or portions of properties owned by the above identified persons may have to be acquired for the project. The City will attempt to purchase the required property by good faith negotiations; however, the City may condemn those properties which it is unable to purchase. The proposed location of the above described public improvement is shown on a conceptual drawing of the project which is now on file in the office of the City Administrator at the City Hall in Winterset, Iowa and available for public inspection.

3. CITY PROCESS TO DECIDE TO PROCEED WITH THE PROJECT AND TO ACQUIRE PROPERTY; CITY COUNCIL ACTION REQUIRED TO PROCEED WITH PROJECT; OPPORTUNITY FOR PUBLIC INPUT.

The City has provided funding in its budget to study, plan and construct this project, as well as funding to acquire any property that may be needed for the project. City staff has analyzed conceptual design options for how to proceed with this project. The studies and planning have reached the point where conceptual designs now indicate that certain property may need to be acquired. Any public comment will be considered in preparing the detailed designs, particularly as private property may be affected. In making the decision to proceed with the above described project and to acquire property and property interests, the City Council is required to hold a public hearing, giving notice to persons interested in the proposed acquisition of property for the project. The public hearing on the project will be held during the City Council's regularly scheduled meeting on the 15th day of October, 2001, in the City Hall, Winterset, Iowa, commencing at 7:00 o'clock p.m. In order to proceed with the above described project and commence the acquisition of property for the project, the City Council will be required to approve the project and authorize acquisition of private property for the project by Council resolution initiating the above described project following the public hearing.

If compensation for acquiring a property or property interest is expected to exceed \$10,000, an appraiser will determine the compensation to be paid for property interests that are needed for the project. The City will offer no less than the appraised value and will attempt to purchase only the needed property by good faith negotiations. If the City is unable to acquire properties needed for the project by negotiation, the City will acquire those properties by condemnation.

4. STATUS OF PROJECT PLANNING.

The above described project is planned and funded as part of the Capital Improvement Budget approved by the City Council.

5. STATEMENT OF RIGHTS.

Just as the law grants certain entities the right to acquire private property, you as the owner of property have certain rights. You have the right to:

- Receive just compensation for the taking of property. (Iowa Constitution Article I, Section 18)
- An offer to purchase which may not be less than the lowest appraisal of the fair market value of the property. (Iowa Code " 6B.45, 6B.54)
- Receive a copy of the appraisal, if an appraisal is required, upon which the acquiring agency's determination of just compensation is based not less than 10 days before being contacted by the acquiring agency's Acquisition agent. (Iowa Code "6B.45)
- When an appraisal is required, an opportunity to accompany at least one appraiser of the acquiring agency who appraises your property. (Iowa Code "6B.54)
- Participate in good faith negotiations with the acquiring agency before the acquiring agency begins condemnation proceedings. (Iowa Code "6B.3 (1))
- If you cannot agree on a purchase price with the acquiring agency, a determination of just compensation by an impartial compensation commission and the right to appeal its award to district court. (Iowa Code " 6B.4, 6B.7, and 6B.18)
- A review by the compensation commission of the necessity for the condemnation if your property is agricultural land being condemned for industry; (Iowa Code " 6B.4A)
- Payment of the agreed upon purchase price, or if condemned, a deposit of the compensation commission award before you are required to surrender possession of the property. (Iowa Code " 6B.25 and 6B.54(11))
- Reimbursement for expenses incidental to transferring title to the acquiring agency. (Iowa Code " 6B.33 and 6B.54(11))
- Reimbursement of certain litigation expenses: (1) if the award of the compensation commission exceeds 110 percent of the acquiring agency's final offer before condemnation; and (2) if the award on appeal in court is more than the compensation commissioner's award. (Iowa Code "6B.33)
- At least 90 days written notice to vacate occupied property. (Iowa Code "6B.54(4))
- Relocation services and payments, if you are eligible to receive them, and the right to appeal your eligibility for and amount of payments. (Iowa Code "316.9)

The rights set out in this Statement are not claimed to be a full and complete list or explanation of an owner's right under the law. They are derived from Iowa Code Chapters 6A, 6B and 316. For a more thorough presentation of an owner's rights, your should refer directly to the Iowa Code or contact an attorney of your choice.

This Notice is given by authority of the Council of the City of Winterset, Iowa. 21

RESOLUTION NO. 2001-120

RESOLUTION AUTHORIZING THE
MILLS STREET STORM SEWER PROJECT
AND ACQUISITION OF EASEMENTS

WHEREAS the City has proposed to construct a public improvement project known as Mills Street Storm Sewer Project; and

WHEREAS the concept for the project shows that it will be necessary to obtain easements from three private property owners; and

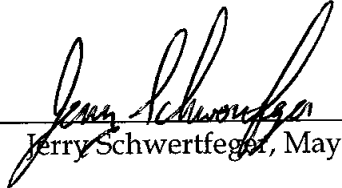
WHEREAS a public hearing has been held to give property owners whose property may be affected by the project an opportunity to be heard.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Winterset, Iowa that the Council hereby authorizes the project engineer and the staff to proceed with plans for the Mills Street Storm Sewer Project.

BE IT FURTHER RESOLVED that the City Attorney and City Administrator are hereby authorized to proceed with negotiations and acquisition of easements required for the Mills Street Storm Sewer Project.

BE IT FURTHER RESOLVED that the proposed easement agreement with Gary & Nancy Emmert is hereby approved and the Mayor and City Administrator is hereby authorized and directed to execute this agreement on behalf of the City.

Passed and approved this 15th day of October, 2001.



Jerry Schwertfeger, Mayor

Attest:



Mark Nitchals, City Administrator

UTILITY LINE EASEMENT

KNOW ALL MEN BY THESE PRESENCE:

The undersigned owners, Gary W. Emmert and Nancy T. Emmert, husband and wife, hereafter called the Grantor, in consideration of the sum of \$21,000.00 (twenty one thousand dollars), receipt of which is acknowledged, does hereby grant to the City of Winterset, Iowa, hereafter called the Grantee, the perpetual right and easement to construct, install, use, repair, maintain, operate, inspect, patrol and remove public right-of-way and public utilities including gas, water, sanitary sewer, storm sewer, electrical and other utilities including the equipment and accessories for the same and all necessary appurtenances and the right of ingress and egress as may be reasonably necessary for the convenient construction, use, repair, maintenance, operation, inspection, patrolling, replacement and removal of these public uses over, along, across and under the following described property situated in Madison County, Iowa, to-wit:

Lot Seven (7), Northwest Development, Plat No. 1, City of Winterset, Madison County, Iowa.

The Grantor warrant and covenant to the Grantee that, subject to liens and encumbrances of record at the date of this easement, it is the owner of the above described land and has full right and authority to validly grant this easement, and the Grantee may quietly enjoy its estate in the premises.

Grantee is given the right to trim, cut and clear away any trees, limbs and brush, whether located on the above described easement property or adjacent to which overhang the same, and the right to remove from the above described easement property any obstruction, including inflammable materials, brush, structures of any kind or other obstructions wherever in its judgment such will interfere with or endanger the construction, operation or maintenance of the right-of-way or utilities; and to renew, replace, and to otherwise change the utilities or any part thereof and all appurtenances thereto and the location thereof within the easement property.

In consideration of such grant, Grantee agrees it will restore to grade the real estate, reseed and repair any damage which may be caused to this real estate by the construction, operation, maintenance, inspection, patrolling, repairing, replacement or removal of the right-of-way or the utilities.

The Grantor covenants that no act will be permitted within the easement property which is inconsistent with the rights hereby granted; that no buildings or structures or other improvements will be erected upon the easement property; and, that the present grade or ground level thereof will not be changed by excavation or filling.

This Agreement shall run with the land and bind and inure to the benefit of the heirs, successors and assigns of the parties.

Dated this 17 day of Oct, 2001.

Grantor:

Gary W Emmert

Gary W. Emmert

Nancy T Emmert

Nancy T. Emmert

Grantee: CITY OF WINTERSET, IOWA

By

Jerry Schwertfeger

Jerry Schwertfeger, Mayor

By

Mark Nitchals

Mark Nitchals, City Administrator



STATE OF IOWA :

:SS

MADISON COUNTY :

On this 5th day of November, 2001, before me, Cindy Bush a Notary Public in and for said County and State, personally appeared Jerry Schwertfeger and Mark Nitchals, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Administrator, respectively, of the City of Winterset, Iowa; that the seal affixed thereto is the seal of said corporation; and that said instrument was signed and sealed on behalf of said corporation by authority of its City Council, as contained in the Resolution adopted by the City Council of the City on the 15th day of October, 2001; and, that Jerry Schwertfeger and Mark Nitchals acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation, by it voluntarily executed.



Cindy M Bush

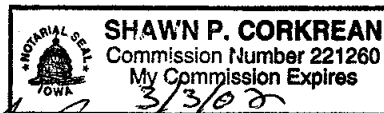
Notary Public

STATE OF IOWA :

:SS

MADISON COUNTY :

On this 17 day of Oct, 2001, before me, the undersigned, a Notary Public in and for said State, personally appeared Gary W. Emmert and Nancy T. Emmert to me known to be the identical persons named in and who executed the foregoing instrument, and acknowledged to me that they executed the same as their voluntary act and deed.



[Signature]

Notary Public