

AGENDA
Dallas Center City Council
November 29, 2023 4:30 pm – Memorial Hall

The Council meeting will be held in person in Memorial Hall. The meeting also may be accessed by the public electronically by Zoom at the following Internet link:
<https://us02web.zoom.us/j/83598209201>, passcode 870998.

If a Zoom user has the Zoom app, just enter the meeting ID **835 9820 9201** and the passcode is **870998**

Or a member of the public may connect to the meeting by telephone using any of the following numbers (**the Meeting ID is 835 9820 9201, the passcode is 870998**): Dial by your location +1 646 558 8656 +1 301 715 8592 +1 312 626 6799 +1 669 900 9128

Depending on the caller's long-distance calling plan, long distance charges may apply.

1. Roll call
2. Action to approve agenda
3. Action on Amended and Restated Resolution 2023-79 – amending the original Resolution 2023-79 by authorizing the creation of an internal loan in the amount of \$121,000 (rather than the original \$102,724), authorizing and creating the indebtedness for such internal loan, and creating TIF indebtedness for the 26.22% LMI allocation of the TIF receipts in the West Urban Renewal Area
4. Discussion and action - clarification on asphalt millings used for parking spaces in Cross Developments
5. East Area Sanitary Sewer Improvements Project
 - a. Action to approve Engagement Agreement with Kristine Stone of Ahlers & Cooney, P.C. for such legal services as may be required in connection with potential eminent domain proceedings by the City, and authorizing the Mayor to sign the Agreement
 - b. Action on Resolution No. 2023-88 – fixing the date for a public hearing (7 p.m. on January 9, 2024) prior to final action on project approval to consider a public improvement project which may require acquisition of agricultural land
6. Adjournment

Shellie Schaben, City Clerk

**AMENDED AND SUBSTITUTED
RESOLUTION NO. 2023-79**

**A RESOLUTION AUTHORIZING THE CREATION OF AN INTERNAL
LOAN IN THE AMOUNT OF \$121,000 AND AUTHORIZING AND
CREATING TIF INDEBTEDNESS FOR SUCH INTERNAL LOAN, AND
CREATING TIF INDEBTEDNESS FOR THE 26.22% LMI ALLOCATION
OF THE TIF RECEIPTS**

WHEREAS, the Council adopted Resolution No. 2023-79 on November 14, 2023, and the Council now has determined that the following amended and substituted resolution should be adopted in its place:

WHEREAS, the Council has determined that an internal loan in the amount of \$121,000 should be created from the General Fund to the Capital Improvement-Cross Developments Street Improvements Project Fund and that TIF funds should be utilized to repay said loan during fiscal year 2024-2025, and into subsequent fiscal years; and

WHEREAS, TIF indebtedness is hereby created for said internal loan in the amount of \$121,000 which initially will be paid from the General Fund; and

WHEREAS, language is found on Page 6 of Amendment No. 1 to the West Urban Renewal Area adopted by Resolution No. 2023-76 by the Council on November 14, 2023, to the effect that the City must assure that the project in the Urban Renewal Area will include assistance for low and moderate income ("LMI") family housing in an amount equal to a percentage of the project costs (the Cross Developments Street Improvements Project), which percentage currently is 26.22%, and TIF indebtedness is hereby created for the LMI share in the amount of 26.22% of the total TIF distribution to the City in the West Urban Renewal Area.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS CENTER, IOWA that City staff is authorized to certify the foregoing TIF indebtedness to the Dallas County Auditor in connection with the West Urban Renewal Area Plan.

IT IS FURTHER RESOLVED that City staff is authorized to reimburse designated Funds from the TIF Fund for all designated Projects as those TIF amounts become available, even in the event the anticipated TIF amounts are received from Dallas

County in a prior fiscal year or not received from Dallas County until a subsequent fiscal year.

This Amended and Substituted Resolution is **PASSED AND APPROVED** by the City Council of the City of Dallas Center, Iowa, on this 29th day of November, 2023.

Daniel Beyer, Mayor

ATTEST:

Shellie Schaben, City Clerk



Ahlers & Cooney, P.C.
Attorneys at Law

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Des Moines, Iowa 50309-2231
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Kristine Stone
515.246.0314
kstone@ahlerslaw.com

November 27, 2023

Mayor & City Council Members
City of Dallas Center
1502 Walnut Street
P.O. Box 396
Dallas Center, IA 50063

Sent via email to City Attorney

RE: Engagement Agreement – Eminent Domain Assistance

Dear Mayor Beyer:

The purpose of this engagement letter is to confirm the terms of our Firm's engagement and to explain our billing practices. Upon the City's acceptance, this letter will serve as a memorandum of the terms of the engagement of this Firm to serve as counsel for the City of Dallas Center, Iowa in the above referenced matter. The legal services to be provided include advising the city council and staff and preparing and reviewing necessary agreements and council proceedings to complete property acquisitions related to the East Area Sanitary Sewer Improvements, including the use of eminent domain, if necessary.

We are pleased to undertake this representation. The fees charged by the Firm for this representation will be based on the current hourly rate of the person performing the service at the time services are performed. My current hourly (2023) rate is \$285. Work performed by other attorneys will be billed at their current hourly rate. Associate attorneys begin at \$200, and work by legal assistants will be billed at \$150. The hourly rates reflected herein are subject to our periodic review and adjustment – typically annually.

Out-of-pocket expenses including, but not limited to, photocopying expenses, would be in addition to the hourly charges and will also be billed separately on our statements. We will forward itemized statements of services rendered on a monthly basis to your attention. If payment is not rendered in a timely fashion, the Firm reserves the right to immediately terminate its representation.

Please indicate your approval and acceptance of the above referenced terms and conditions of our engagement by signing, dating, and returning a copy of this letter to me. Should you have any questions or concerns about our proposed terms and conditions, please not hesitate to contact me.

APPROVAL

Please carefully review the terms and conditions of this Agreement. **If this Agreement accurately reflects the terms of this particular engagement, please obtain approval by an appropriate city representative and execute, date and return to me the enclosed copy of this Agreement. Please retain the original for your file.**

If you have questions regarding any aspect of the above or our representation, please do not hesitate to contact me. As always, we appreciate the opportunity to represent the City of Dallas Center, Iowa and we look forward to working with you on this matter.

Sincerely,

AHLERS & COONEY, P.C.

By 
Kristine Stone

KS:ct

Accepted and approved on behalf of the City Council*

By: _____ Dated: 11-29-23
Title: Mayor

*Authorized by ~~Resolution~~ / Motion _____ approved on Nov. 29,
2023.

RESOLUTION NO. 2023-88

RESOLUTION FIXING DATE FOR PUBLIC HEARING PRIOR TO FINAL ACTION ON PROJECT APPROVAL TO CONSIDER A PUBLIC IMPROVEMENT PROJECT WHICH MAY REQUIRE ACQUISITION OF AGRICULTURAL LAND.

WHEREAS, Chapter 6B, Code of Iowa, requires a governmental body which proposes to acquire agricultural land under power of eminent domain for a public improvement project to hold a public hearing prior to project approval at which interested parties may express their views regarding the project and regarding the proposed acquisition of property, and

WHEREAS, the City of Dallas Center has before it the consideration of a public improvement project which may require acquisition of agricultural land, and

WHEREAS, with respect to said public improvement project, the City of Dallas Center has not made a decision to fund any final site-specific design nor has it selected a final route or location,

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS CENTER:

Section 1. That the City Council shall conduct a public hearing in the Council Chambers in Memorial Hall (above City Hall) 1502 Walnut Street, Dallas Center, Iowa at 7:00 pm on Tuesday, January 9, 2024 for the purpose of receiving comments from members of the public and any person with an interest in real estate which may be acquired by use of powers of eminent domain or otherwise on the question of whether to proceed with the following described project and authorize the use of powers of eminent domain in connection therewith, to wit:

The City will be constructing a lift station and sanitary sewer improvements. The East Area Sanitary Sewer Improvements Project includes:

A lift station located on the west side of S Avenue slightly more than ¼ mile north of Highway 44, a trunk sewer extending from the lift station westerly approximately ½ mile to a point on the east line of the southwest quarter of Section 30-80-27 and a force main extending from the lift station south in the west half of the right-of-way of S Avenue to Highway 44 and west in the north half of the right-of-way of Highway 44 from S Avenue to the existing sanitary sewer located at the northeast corner of Highway 44 and R Avenue.

Portions of the project will be constructed within the City limits and other portions will be constructed outside of the City limits.

Section 2. The City Clerk is hereby directed to mail notice of said hearing to the record owners and contract purchasers of record at least thirty days prior to hearing and not more than fourteen nor less than seven days prior to mailing said notice to search the records of the Dallas County Auditor to ascertain the names of the owners of record and contract purchasers. The City

Clerk is also hereby directed to publish notice as required by law not less than four nor more than twenty days prior to the date set for hearing.

Section 3. The notices hereby ordered shall be in substantially the form attached hereto as Exhibit A.

PASSED AND APPROVED by the City Council of the City of Dallas Center, Iowa, on this 29th day of November, 2023.

Daniel Beyer, Mayor

ATTEST:

Shellie Schaben, City Clerk

EXHIBIT A

NOTICE OF INTENT TO CONSIDER WHETHER TO COMMENCE A PUBLIC IMPROVEMENT PROJECT TO CONSTRUCT THE EAST AREA SANITARY SEWER IMPROVEMENTS AND WHETHER TO ACQUIRE AGRICULTURAL LAND FOR THE PROJECT

To Members of the Public, Representatives of the Media That Have Requested Notice of Public Meetings, All Other Persons, Companies or Corporations Having Any Interest In or owning any of the following described Real Estate, And to the Property Owners and Contract Purchasers of Record of the Affected Agricultural Land Identified by Location or Address Below As Shown In the Records of the County Auditor Not Less Than Seven (7) Nor More Than Fourteen (14) Days Prior to the Date of Mailing:

Property No.	Owner and Address	Legal Description for Affected Property
1	Downing Development WP, L.L.C. 13004 NW 44 th Street Polk City, Iowa 50226	The Southeast Quarter of the Northeast Quarter (SE ¼ NE ¼) and the Northeast Quarter of the Southeast Quarter (NE ¼ SE ¼) of Section 36, Township 80 North, Range 27 West of the 5 th P.M., Dallas County, Iowa.
2	Glen S. and Beverly S. Rowe (2/3 Interest) 3163 110 th Street Lorimor, Iowa 50149 Jean E. Patterson (Contract Seller 1/3 Interest) 421 31 st Street West Des Moines, Iowa 50265 Tanner Rowe (Contract Purchaser 1/3 Interest) 25745 205 th Street Minburn, Iowa 50167	Lot 2 of Rowe Subdivision, an official subdivision in Dallas County, Iowa; and the NW ¼ of the SE ¼ of Section 36, Township 80 North, Range 27 West of the 5th P.M., Dallas County, Iowa, and the SW ¼ of the NE ¼ of Section 36, Township 80, Range 27 West of the 5th P.M., Dallas County, Iowa.
3	Skye View Estates, LLC 3233 Ashworth Road Waukee, Iowa 50263	The East One-half (E ½) of the Southwest Quarter (SW ¼) and the South One-half (S ½) of the Southwest Quarter (SW ¼) of the Southwest Quarter (SW ¼) of

		<p>Section Thirty-six (36) of Township Eighty (80) North, Range Twenty-seven (27) West of the 5th P.M., Dallas County, Iowa, EXCEPT Parcel A of the SE ¼ SW ¼ of Section 36, Township 80 North, Range 27 West of the 5th P.M., Dallas County, Iowa as shown on Plat of Survey recorded in Book 849 Page 98, and EXCEPT Parcel 19-71 of the SW ¼ Section 36, Township 80 North, Range 27 West of the 5th PM, Dallas Center, Dallas County, Iowa as shown on Plat of Survey recorded in Book 2019 Page 14376.</p>
4	<p>Brethren Cemetery Association 22729 Quinlan Avenue Dallas Center, Iowa 50063</p>	<p>Commencing 497.5 feet North of the corner stone at the Southeast corner of the SE ¼ of said Section 36, Township 80 North, Range 27, West of the 5th P.M., Dallas County, Iowa: thence North on the East line of said SE ¼ of said Section 36, 644.0 feet; thence West 21 rods and 4 feet; thence South to a point due West of the point of beginning; thence East 21 rods and 4 feet to the point of beginning (old cemetery). <u>and also</u></p> <p>Commencing at a point 21 rods and 4 feet West of a point 497.5 feet North of the cornerstone at the Southeast corner of the SE ¼ of Section 36-80-27 West of the 5th P.M., Dallas County, Iowa; thence North 644.0 feet; thence West 170 feet; thence South 644.0 feet to a point due West of the point of beginning; thence East 170 feet to the point of beginning in Dallas County, Iowa.</p>

5	<p>Stanley and Janet Hawbaker Family Trust dated 02/13/2019 Angela K. Hawbaker-Irlbeck, Trustee 27791 240th Street Dallas Center, Iowa 50063</p>	<p>The Southeast Quarter of the Southeast Quarter (SE¼ SE ¼) of Section 36, Township 80 North, Range 27, West of the 5th P.M., Dallas County, Iowa, EXCEPT that part owned and used as a cemetery and described as follows:</p> <ol style="list-style-type: none"> 1. Commencing 497.5 feet North of the corner stone at the Southeast corner of the SE ¼ of said Section 36: thence North on the East line of said SE ¼ of said Section 36, 644.0 feet; thence West 21 rods and 4 feet; thence South to a point due West of the point of beginning; thence East 21 rods and 4 feet to the point of beginning (old cemetery). 2. Also: commencing at a point 21 rods and 4 feet West to a point 497.5 feet North of the cornerstone at the Southeast corner of the SE ¼ of Section 36-80-27 West of the 5th P.M.; thence North 644.0 feet; thence West 170 feet; thence South 644.0 feet to a point due West of the point of beginning; thence East 170 feet to the point of beginning in Dallas County, Iowa.
6	<p>Jeanne Patterson 27593 240th Street Dallas Center, Iowa 50063</p>	<p>Commencing at the South ¼ Corner of Section 36, Township 80 North, Range 27 West of the 5th P.M., Dallas County, Iowa, thence East 270.1 feet to the Point of Beginning; thence N 2 degrees 04' W, 219.23 feet; thence S 89 degrees 07' E, 262.49 feet; thence</p>

		S 0 degrees 53' W, 57.0 feet; thence S 89 degrees 07' E, 71.0 feet; thence South 0 degrees 53' W, 157.20 feet; thence West 0 degrees 00', 322.98 feet to the Point of Beginning.
7	Neva W. Kaufmann Revocable Trust dated 03/11/2011 Neva Kaufmann, Trustee 27551 240 th Street Dallas Center, Iowa 50063	Lot One (1) of Rowe Subdivision, an official subdivision, in Dallas County, Iowa
8	Tim J. Tyler and Denise Hammons Tyler 27435 240 th Street Dallas Center, Iowa 50063	Beginning at the South ¼ corner Section 36-T80N-R27 W of the 5 th P.M., Dallas County, Iowa, thence N 89°-57 ½' W 375.0 feet, thence N 0°-07 ¾' West 816.1 feet, thence S 89°-57 ½' E 375.0 feet, thence S 0° 07 ¾' E 816.1 feet to the point of beginning containing 7.03 acres, including 0.53 acres of highway right of way and hereafter called Lot 1 – SE ¼- SW ¼ Section 36-T80N-R27W of the 5 th P.M., Dallas County, Iowa, <u>and</u> Beginning 375.0 feet N 89° - 57 ½' W of the South ¼ corner Section 36-T-80N-R27W of the 5 th P.M., Dallas County, Iowa, thence continuing N89° - 57 ½' W 225.0 feet, thence N 0°-07 ¾' W 816.1 feet, thence S 89° - 57 ½' E 225.0 feet thence S 0°-07 ¾' E 816.1 feet to the point of beginning containing 4.22 acres, including 0.36 acres of roadway.
9	Roberta J. Wolff Trust dated 08/23/2010 Roberta J. Wolff, Trustee 3414 Arrowwood Lane	Lot 1 of Parcel 19-71 being a part of the SW ¼ of Section 36, Township 80 North, Range 27 West

	Dubuque, Iowa 52001	of the Fifth Principal Meridian, Dallas Center, Dallas County, Iowa as described in the Plat of Survey of Parcel 19-71 filed in the Office of the Recorder in and for Dallas County, Iowa on August 14, 2019 in Book 2019 Page 14376.
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Under the provisions of Chapter 6B of the Iowa Code, a governmental body which proposes to acquire agricultural land under power of eminent domain for a public improvement project is required to give notice of intent to commence the project to all owners of such agricultural land whose properties may be acquired in whole or in part for the project.

1. DESCRIPTION OF THE PROJECT.

The project, tentatively identified as the East Area Sanitary Sewer Improvements Project includes: A lift station located on the west side of S Avenue slightly more than ¼ mile north of Highway 44, a trunk sewer extending from the lift station westerly approximately ½ mile to a point on the east line of the southwest quarter of Section 30-80-27 and a force main extending from the lift station south in the west half of the right-of-way of S Avenue to Highway 44 and west in the north half of the right-of-way of Highway 44 from S Avenue to the existing sanitary sewer located at the northeast corner of Highway 44 and R Avenue. **NOTICE IS HEREBY GIVEN** to the above identified owners of agricultural and other land that the City Council of the City of Dallas Center will consider authorizing the commencement of the project.

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

If the project is approved by the City Council of the City of Dallas Center, then the City will be required to acquire property for the project improvements. Upon review of Dallas County property records, it appears that agricultural land owned by the above identified persons may have to be acquired in whole or in part for the project. The City Council will attempt to purchase the required agricultural land by good faith negotiations, and it may condemn those properties which it is unable to purchase. The proposed location of the public improvement comprising the project is shown on a conceptual drawing of the project which is now on file in the office of the City Clerk, City Hall, 1502 Walnut Street, Dallas Center, Iowa and is available for public inspection.

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

In making the decision to proceed with the project and to authorize the acquisition of property and property interests, the City of Dallas Center is required to hold a public hearing. The City of Dallas Center shall conduct a public hearing before City Council in the Council Chambers in Memorial Hall (above City Hall) 1502 Walnut Street, Dallas Center, Iowa at 7:00 pm on Tuesday, January 9, 2024, for the purpose of giving persons interested in the proposed project the opportunity to present their views regarding the project, and regarding the proposed acquisition of property for the project. You may attend the meeting in person, or the meeting will be conducted electronically with electronic public access to the meeting location available by Zoom on your computer, laptop, or smart phone at <https://us02.web.zoom.us/j/86904847799>. If a Zoom user has the Zoom app, just enter the meeting ID 869 0484 7799 and the passcode is 996806. Or a member of the public may connect to the meeting by telephone using the following telephone number (312) 626-6799 and by entering the meeting ID number and the passcode. Persons receiving this notice have a right to attend the meeting and to voice objection to the proposed acquisition of property.

In order for the City 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 resolution. The City Council is scheduled to consider adoption of the resolution initiating the above described project following the public hearing.

If the project is approved by the City Council, a value of impacted property will be established as required by law as compensation to be paid for property or property interests that are needed for the project. The City will offer no less than the established 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. STATEMENT OF RIGHTS.

STATEMENT OF PROPERTY OWNER'S RIGHTS

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

1. Receive just compensation for the taking of property. (Iowa Constitution, Article I, section 18)
2. An offer to purchase which may not be less than the lowest appraisal of the fair market value of the property.
3. 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 ten days before being contacted by the acquiring agency's acquisition agent.

4. An opportunity to accompany at least one appraiser of the acquiring agency who appraises your property when an appraisal is required.
5. Participate in good-faith negotiations with the acquiring agency before the acquiring agency begins condemnation proceedings.
6. A determination of just compensation by an impartial compensation commission and the right to appeal its award to the district court if you cannot agree on a purchase price with the acquiring agency.
7. A review by the compensation commission of the necessity for the condemnation if your property is agricultural land being condemned for industry.
8. 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.
9. Reimbursement for expenses incidental to transferring title to the acquiring agency.
10. Reimbursement of certain litigation expenses: (a) if the award of the compensation commissioners exceeds 110 percent of the acquiring agency's final offer before condemnation; and (b) if the award on appeal in court is more than the compensation commissioners' award.
11. At least 90 days' written notice to vacate occupied property.
12. Relocation services and payments, if you are eligible to receive them, and the right to appeal your eligibility for and amount of the payments.

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

5. CONTACT PERSON.

Persons desiring further information regarding the proposed public improvement project or the impact on their property identified above may contact:

Name of Contact Person: Cindy Riesselman, City Administrator

Address of Contact Person: City of Dallas Center
PO Box 396
Dallas Center, Iowa 50063

Telephone # of Contact Person (515) 992-3725

This Notice is given by authority of the City Council of the City of Dallas Center