

21.196

72

Date December 20, 2021

**HOLD HEARING FOR APPROVAL OF DOCUMENTS TO CORRECT THE VACATION OF THE NORTH-SOUTH ALLEY RIGHT-OF-WAY LOCATED WEST OF AND ADJOINING 1010 13<sup>TH</sup> STREET AND TO ISSUE A CORRECTED QUIT CLAIM DEED TO JOPPA CHEATOM PARK, LLC**

**WHEREAS**, on October 18, 2021, by Roll Call No. 21-1585, the City Council of the City of Des Moines voted to pass Ordinance No. 16,055 vacating the north-south alley right-of-way located west of and adjoining 1010 13<sup>th</sup> Street, Des Moines, Iowa and to approve the sale of such vacated alley right-of-way to JOPPA Cheatom Park, LLC, for \$25.00, subject to the reservation of easements for any existing utilities until such time that they are abandoned; and

**WHEREAS**, subsequent to passing Ordinance No. 16,055 and recording a quit claim deed conveying said vacated alley right-of-way, an error was discovered in the legal description of the vacated alley right-of-way leading to the need to repeal said ordinance, pass a new ordinance to vacate the properly described right-of-way, and issue a Corrected Quit Claim Deed; and

**WHEREAS**, on December 6, 2021, by Roll Call No. 21-1820, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed corrected vacation and conveyance of the alley right-of-way be set for hearing on December 20, 2021, at 5:00 p.m., in the City Council Chambers, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa; and

**WHEREAS**, due notice of said proposal to repeal Ordinance No. 16,055 and to correct the vacation and conveyance of the alley right-of-way was given as provided by law, setting forth the time and place for hearing on said proposal, including how to participate electronically and telephonically; and

**WHEREAS**, in accordance with City Council direction, those interested in the proposed vacation and conveyance, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Des Moines, Iowa, as follows:

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed repeal of Ordinance No. 16,055 and the vacation of the alley right-of-way as described herein, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the alley right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of the north-south alley right-of-way located west of and adjoining 1010 13<sup>th</sup> Street, Des Moines, Iowa, legally described as follows, subject to the reservation of easements for any existing utilities until such time that they are abandoned, and said vacation is hereby approved:

A PART OF THE NORTH/SOUTH ALLEY RIGHT OF WAY LYING WEST OF AND ADJOINING LOT 4, BLOCK F, DAY'S ADDITION TO FORT DES MOINES, AN OFFICIAL PLAT, ALL NOW

21-1961

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**Date** December 20, 2021

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INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 4; THENCE SOUTH ALONG THE WEST LINE OF SAID LOT 4, A DISTANCE OF 82.78 FEET; THENCE SOUTHWESTERLY ALONG A STRAIGHT LINE TO A POINT ON THE EAST LINE OF LOT 5 IN SAID BLOCK F, SAID POINT BEING 83.22 FEET SOUTH OF THE NORTHEAST CORNER OF SAID LOT 5; THENCE NORTH ALONG SAID EAST LINE OF SAID LOT 5 TO THE NORTHEAST CORNER OF SAID LOT 5; THENCE EAST ALONG A STRAIGHT LINE TO THE NORTHWEST CORNER OF SAID LOT 4 AND THE POINT OF BEGINNING, AND CONTAINING APPROXIMATELY 0.03 ACRES (1271 SQUARE FEET).

3. The City Council of the City of Des Moines, Iowa, further approves the issuance of a Corrected Quit Claim Deed for said vacated alley right-of-way to JOPPA Cheatom Park, LLC, legally described as follows, subject to the reservation of easements for all existing utilities in place, until such time that they are abandoned or relocated:

A PART OF THE VACATED NORTH/SOUTH ALLEY RIGHT OF WAY LYING WEST OF AND ADJOINING LOT 4, BLOCK F, DAY'S ADDITION TO FORT DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 4; THENCE SOUTH ALONG THE WEST LINE OF SAID LOT 4, A DISTANCE OF 82.78 FEET; THENCE SOUTHWESTERLY ALONG A STRAIGHT LINE TO A POINT ON THE EAST LINE OF LOT 5 IN SAID BLOCK F, SAID POINT BEING 83.22 FEET SOUTH OF THE NORTHEAST CORNER OF SAID LOT 5; THENCE NORTH ALONG SAID EAST LINE OF SAID LOT 5 TO THE NORTHEAST CORNER OF SAID LOT 5; THENCE EAST ALONG A STRAIGHT LINE TO THE NORTHWEST CORNER OF SAID LOT 4 AND THE POINT OF BEGINNING, AND CONTAINING APPROXIMATELY 0.03 ACRES (1271 SQUARE FEET).

4. The Mayor is authorized and directed to sign the Corrected Quit Claim Deed for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
5. The City Clerk is authorized and directed to forward the original of the Corrected Quit Claim Deed, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be recorded.
6. The Real Estate Division Manager is authorized and directed to forward the original of the Corrected Quit Claim Deed, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.
7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Corrected Quit Claim Deed and a copy of the other documents to the grantee.



**Roll Call Number**

21.1961

**Agenda Item Number**

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**Date** December 20, 2021

8. There are no proceeds associated with this action.

Moved by Mandelbaum to adopt.

APPROVED AS TO FORM:

/s/ Lisa A. Wieland

Lisa A. Wieland, Assistant City Attorney

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	7			

MOTION CARRIED

APPROVED

J. M. Franke Cownie Mayor

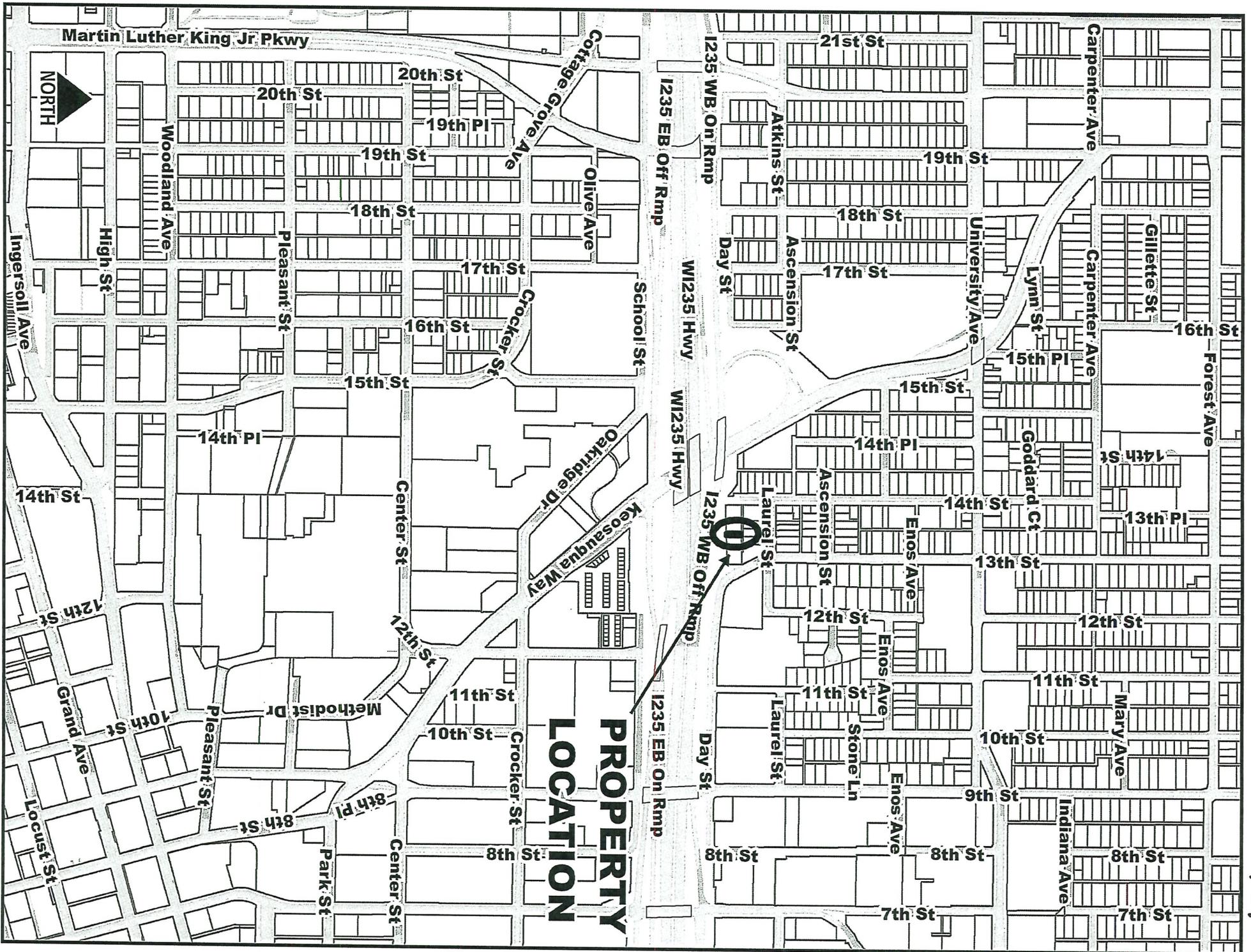
**CERTIFICATE**

I, P. Kay Cmelik, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

P. Kay Cmelik

City Clerk



**PROPERTY  
LOCATION**

7221-261

11742

21-1161

Jappa  
H2



DES MOINES, CITY OF  
400 ROBERT D RAY DR

DES MOINES IA 503091813

# of Affidavits 1

This is not an invoice

### AFFIDAVIT OF PUBLICATION

State of Wisconsin

County of Brown, ss.:

The undersigned, being first duly sworn on oath, states that The Des Moines Register and Tribune Company, a corporation duly organized and existing under the laws of the State of Iowa, with its principal place of business in Des Moines, Iowa, the publisher of

#### THE DES MOINES REGISTER

newspaper of general circulation printed and published in the City of Des Moines, Polk County, Iowa, and that an advertisement, a printed copy of which is attached as Exhibit "A" and made part of this affidavit, was printed and published in The Des Moines Register in the editions dated:

Ad No.	Start Date:	Editions Dated:	Cost:
0005032803	12/8/21	12/08/2021	\$63.62

Copy of Advertisement  
Exhibit "A"

*[Signature]*  
Staff member, Register Media

Subscribed and sworn to before me by said affiant this

8 day of December, 2021

*[Signature]*  
Notary Public

1-7-25  
Commission expires

KATHLEEN ALLEN  
Notary Public  
State of Wisconsin

PO# 11742  
\$ 63.62

NOTICE OF PROPOSAL TO  
VACATE AND CONVEY  
CITY-OWNED PROPERTY

NOTICE IS HEREBY GIVEN that the City Council of the City of Des Moines, Iowa, shall consider the repeal of Ordinance No. 16,055 and the adoption of a corrected ordinance permanently vacating the north-south alley right-of-way located west of and adjoining 1010 13th Street, legally described as follows, subject to the reservation of easements for all existing utilities in place until such time that they are abandoned or relocated:

A PART OF THE NORTH/SOUTH ALLEY RIGHT OF WAY LYING WEST OF AND ADJOINING LOT 4, BLOCK F, DAY'S ADDITION TO FORT DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 4; THENCE SOUTH ALONG THE WEST LINE OF SAID LOT 4, A DISTANCE OF 82.78 FEET; THENCE SOUTHWESTERLY ALONG A STRAIGHT LINE TO A POINT ON THE EAST LINE OF LOT 5 IN SAID BLOCK F, SAID POINT BEING 83.22 FEET SOUTH OF THE NORTHEAST CORNER OF SAID LOT 5; THENCE NORTH ALONG SAID EAST LINE OF SAID LOT 5 TO THE NORTHEAST CORNER OF SAID LOT 5; THENCE EAST ALONG A STRAIGHT LINE TO THE NORTHWEST CORNER OF SAID LOT 4 AND THE POINT OF BEGINNING, AND CONTAINING APPROXIMATELY 0.03 ACRES (1271 SQUARE FEET).

NOTICE IS FURTHER GIVEN, that the City Council of the City of Des Moines, Iowa, has adopted a resolution setting a hearing relating to a proposal that if the City Council first decides to repeal Ordinance No. 16,055 and vacate the above-described right-of-way, then the City of Des Moines proposes to issue a Corrected Quit Claim Deed to JOPPA Cheatam Park, LLC.

NOTICE IS FURTHER GIVEN that the City Council will consider the repeal of Ordinance No. 16,055, the adoption of the proposed corrected vacation ordinance and the issuance of a Corrected Quit Claim Deed conveying said vacated right-of-way after a public hearing to be held December 20, 2021, at 5:00 p.m. in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa. At that time, the City Council will consider the above-described proposal and any other(s) submitted prior to or during the public hearing.

In addition, the City Council shall receive written views, comments, objections and arguments from any resident or taxpayer of the City that are received by the City Clerk prior to 5:00 p.m. December 16, 2021 (City Clerk's Office, Des Moines City Hall, 400 Robert D. Ray Drive, 1st Floor, Des Moines, IA 50309; Email [cityclerk@dmgov.org](mailto:cityclerk@dmgov.org)).

Please check the posted agenda in advance of the December 20, 2021 meeting for any update on the manner in which the public hearing will be conducted to comply with COVID-19 social distancing and safety guidelines.

PUBLISHED IN THE DES MOINES REGISTER ON DECEMBER 8, 2021.

Prepared by: Lisa A. Wieland, City of Des Moines, 400 Robert D. Ray Drive, Des Moines, IA 50309-1891 (515) 283-4561  
Return to: Real Estate Division, City of Des Moines, 400 Robert D. Ray Drive, Des Moines, IA 50309-1891  
Address Tax  
Statements to: JOPPA Cheatom Park, LLC, 2326 Euclid Avenue, Des Moines, Iowa 50310  
Title of Document: Quit Claim Deed  
Grantor's Name: City of Des Moines, Iowa  
Grantee's Name: JOPPA Cheatom Park, LLC  
Legal Description: See below on this page

Project Name: Dispositions – No Acquisition project

Parcel No: 642

Activity ID: 341111000

## **CORRECTED QUIT CLAIM DEED**

### **KNOW ALL MEN BY THESE PRESENTS:**

That the **CITY OF DES MOINES**, a municipal corporation of the County of Polk, the State of Iowa, in consideration of the total sum of Twenty-Five and No/100 Dollars (\$25.00), receipt of which is hereby acknowledged, does hereby **QUIT CLAIM** unto JOPPA Cheatom Park, LLC, an Iowa limited liability company, all its right, title and interest in and to the following described premises, situated in Polk County, State of Iowa, to-wit:

A PART OF THE VACATED NORTH/SOUTH ALLEY RIGHT OF WAY LYING WEST OF AND ADJOINING LOT 4, BLOCK F, DAY'S ADDITION TO FORT DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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The City of Des Moines **HEREBY RESERVES** an easement upon the property described above for the continued use and maintenance of any utilities now in place, including those for the benefit and use of the City of Des Moines, with the right of entry for servicing same.

**This Corrected Quit Claim Deed is being filed to correct a scrivener's error in the legal description in the Quit Claim Deed from the City of Des Moines, Iowa to JOPPA Cheatom Park, LLC filed on October 26, 2021 in Book 18825 Pages 620.**

No transfer tax due. Government grantor. § 428A.2(6).

Signed this 20<sup>th</sup> day of December, 2021.

CITY OF DES MOINES, IOWA

T. M. Franklin Cownie  
T. M. Franklin Cownie, Mayor

ATTEST:

P. Kay Cmelik  
P. Kay Cmelik, City Clerk

APPROVED AS TO FORM:

Lisa A. Wieland  
Lisa A. Wieland, Assistant City Attorney

STATE OF IOWA )  
) ss:  
COUNTY OF POLK )

On this 20<sup>th</sup> day of December, 2021, before me, the undersigned, a Notary Public, personally appeared T. M. Franklin Cownie and P. Kay Cmelik, to me personally known, who, being by me duly sworn, did state that they are the Mayor and City Clerk, respectively, of the City of Des Moines, Iowa; that the seal affixed to the foregoing instrument is the seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation, by authority of its City Council, as contained in the Resolution and Roll Call No. 21-196\*1 adopted by the City Council on the 20<sup>th</sup> day of December, 2021, and that T. M. Franklin Cownie and P. Kay Cmelik acknowledged the execution of the instrument to be the voluntary act and deed of the municipal corporation, by it voluntarily executed.

Sandi L. Deery  
Notary Public in the State of Iowa

