

#1177



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 CITY OF CEDAR RAPIDS
2. The real property subject to the Application is located in LINN County.
3. The date the condemnation application was filed by the undersigned County Recorder is JULY month, 23 day, 2013 year.
4. The attached Condemnation Application is filed of record at Document # \_\_\_\_\_  
Book 8744, Page 258.

*[Signature]*  
County Recorder for

LINN 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 CITY OF CEDAR RAPIDS
2. The corresponding Condemnation Application to this Sheriff's Statement was filed of record at Document # \_\_\_\_\_, Book 8744, Page 258 and a copy was sent to the Secretary of State.
3. The attached Sheriff's Statement was filed of record at Document # \_\_\_\_\_  
Book 8832, Page 354; on OCTOBER month, 28 day, 2013 year.

*[Signature]*  
County Recorder for

LINN County

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

**SEE INSTRUCTIONS ON BACK**

IN THE MATTER OF THE CONDEMNATION OF CERTAIN REAL ESTATE FOR

76<sup>TH</sup> AVENUE SW FROM KIRKWOOD BOULEVARD TO INTERSTATE 380 RECONSTRUCTION

WITH

JON & DONNA DIVISHEK, ROBERT & PAM DIVISHEK, RICHARD DIVISHEK, LINDA LEFEBURE CROWN ASSET MANAGEMENT, IOWA DEPARTMENT OF REVENUE, LINN COUNTY TREASURER

By: City of Cedar Rapids

TO: Linn County Recorder

SHERIFF'S FILING OF RECORD 30 DAYS AFTER THE DATE OF THE REPORT OF THE COMMISSIONERS

REC'D 13 JUL 29 PM 2:59



Doc ID: 020858620066 Type: GEN Recorded: 10/28/2013 at 02:22:30 PM Fee Amt: \$351.20 Page 1 of 65 Revenue Tax: \$19.20 Linn County Iowa JOAN MCCALMANT RECORDER

BK 8832 PG 354-418

Please find attached the following papers regarding the above-described Condemnation proceedings which was held in my office on the 25<sup>th</sup> day of September, 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:

Table with 4 columns: Warrant #, Amount, Parcel, Date Claimed. Includes entries for warrants #10218784, #10218785, and #10218786.

The Application for Condemnation was filed with your office on the 23rd day of JULY, 2013 in volume 8744 on page 250-280.

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

Brian D. Gardner, Sheriff Linn County, Iowa

By: J.T. ROWLAND, Deputy Date: 10-28-13

In the matter of the Condemnation of certain Real Estate for )

) Sheriff's Certification of  
) Costs and Awards  
)

By: City of Cedar Rapids )

To: City of Cedar Rapids, Attn: Becky Kluesner

I hereby certify that the appointed Commissioners in the above entitled Condemnation Commission Proceedings convened at Cedar Rapids, Iowa, on the 25<sup>th</sup> day of September, 2013, and thereupon proceeded to view the premises and the said Commissioners did thereafter on the 25<sup>th</sup> day of September, 2013, file their written report with me awarding damages as follows:

	LAND & IMPROVE.	CONSEQ. DAMAGES	TOTAL AWARD	ATTY FEES
Jon & Donna Divishek Robert & Pam Divishek Robert Divishek Linda Lefebure Crown Asset Management, LLC Iowa Department of Revenue Linn County Treasurer L. JANSA	\$11,840.00		\$11,840.00	
	\$		\$220.00	

I further certify that costs incidental to these proceeding have been taxed as follows:

Expense of Summoning Commissioners	\$
Serving Condemnees	\$ 80.00
Expense of Commissioners	\$ 1,248.42
Sheriff's Mileage Serving Condemnees	\$ 21.50
Sheriff's Mileage Transporting Commissioners	\$ 22.60
Copies	\$ 39.00
Sheriff's Fee Attending Condemnation	\$ 100.00
Notary	\$
Publication	\$ 19.75
Postage	\$ 15.66
Recording Fee	\$ TO BE PAID BY CITY OF CEDAR RAPIDS ATTENTION: BECKY KLUESNER
Total	\$ 1,546.93



Subscribed and sworn to before me this 25<sup>th</sup> day of SEPTEMBER, 2013.

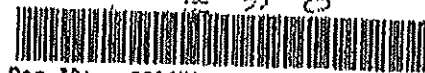
Brian D. Gardner, Sheriff  
Linn County, Iowa  
By: *[Signature]* Deputy  
L.T. R. ROWLAND

Subscribed and sworn to before me this 25<sup>th</sup> day of SEPTEMBER, 2013, by  
L.T. R. ROWLAND, Deputy Sheriff, Linn County, Iowa.

*Wendy Ranae Deane*  
NOTARY PUBLIC In and for the State of Iowa

IN THE MATTER OF THE CONDEMNATION )  
 OF STREET RIGHT-OF-WAY AND A )  
 TEMPORARY CONSTRUCTION EASEMENT )  
 BY THE INCORPORATED CITY OF )  
 CEDAR RAPIDS FOR PURPOSES OF )  
 IMPROVING 76<sup>TH</sup> AVENUE SW, )  
 FRONT 301, DEPARTMENT ID 301000, )  
 PROJECT 3012049-00, AND FOR ANY AND )  
 ALL OTHER PUBLIC PURPOSES AS MAY )  
 BE DETERMINED IN THE DISCRETION OF )  
 THE CITY COUNCIL OF THE )  
 CITY OF CEDAR RAPIDS, IOWA )

APPLICATION FOR  
 CONDEMNATION



Doc ID: 020672250023 Type: GEN  
 Recorded: 07/23/2013 at 11:49:36 AM  
 Fee Amt: \$117.00 Page 1 of 23  
 Revenue Tax: 60.00  
 Linn County Iowa  
 JOAN MCCALMANT RECORDER

BK 8744 PG 258-280

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

The Applicant, the Incorporated City of Cedar Rapids, Iowa (hereinafter "City" or "Applicant") applies for condemnation of lands for street right-of-way in fee simple absolute and temporary construction easement, all as more fully described herein, on certain real property legally described herein. In support of this Application, the City of Cedar Rapids, Iowa states as follows:

1.a. The property to be condemned in fee simple absolute for street right-of-way is legally described as follows:

Part of the southwest quarter of the southeast quarter, section 16, township 82 north, range 7 west of the 5<sup>th</sup> Principal Meridian, Cedar Rapids, Linn County, Iowa described as follows:

Commencing at the south quarter corner of section 16, township 82 north, range 7 west of the 5<sup>th</sup> Principal Meridian; thence N89°46'39"E along the south line of said section 16, 1340.02 feet to the southeast corner of the southwest quarter of the southeast quarter of said section 16; thence N1°32'09"W along the east line of the southwest quarter of said southeast quarter, 33.01 feet to the north right of way of 76<sup>th</sup> Avenue S.W. and the point of beginning; thence S89°46'39"W along said north right of way, 85.41 feet; thence N1°32'09"W, 8.92 feet; thence northeasterly, 87.67 feet along the arc of a 330.00 foot radius curve, concave easterly (chord bears N6°04'30"E, 87.41 feet); thence N13°41'08"E, 16.54 feet; thence northeasterly, 71.73 feet along the arc of a 270.00 foot radius curve, concave westerly (chord bears N6°04'30"E, 71.52 feet); thence N1°32'09"W, 44.85 feet; thence N89°56'54"E, 60.02 feet to the east line of the southwest quarter of said southeast quarter; thence S1°32'09"E along said east line, 227.66 feet to the point of beginning.

Said parcel contains 16,175 Sq.Ft., 0.37 acre, subject to easements and restrictions of record.

1.b. The property to be condemned for temporary construction easement is legally described as follows:

Part of the southwest quarter of the southeast quarter, section 16, township 82 north, range 7 west of the 5<sup>th</sup> Principal Meridian, Cedar Rapids, Linn County, Iowa described as follows:

Commencing at the south quarter of corner of section 16, township 82 north, range 7 west of the 5<sup>th</sup> Principal Meridian; thence N89°46'39"E along the south line of said section 16, 1340.02 feet to the southeast corner of the southwest quarter of the southeast quarter of said section 16; thence N1°32'09"W along the east line of the southwest quarter of said southeast quarter, 33.01 feet to the north right of way of 76<sup>th</sup> Avenue S.W.; thence S89°46'39"W along said north right of way, 85.41 feet to the point of beginning; thence continuing S89°46'39"W along said north right of way, 35.00 feet; thence N44°34'09"E, 35.23 feet; thence northeasterly, 74.01 feet along the arc of a 340.00 foot radius curve, concave easterly (chord bears N7°26'58"E, 73.87 feet); thence N13°41'08"E, 16.54 feet; thence northeasterly, 69.07 feet along the arc of a 260.00 foot radius curve, concave westerly (chord bears N6°04'30"E, 68.87 feet); thence N1°32'09"W, 55.11 feet; thence N89°56'54"E, 70.02 feet to the east line of the southwest quarter of said southeast quarter; thence S1°32'09"E along said east line, 10.00 feet; thence S89°56'54"W, 60.02 feet; thence S1°32'09"E, 44.85 feet; thence southerly, 71.73 feet along the arc of a 270.00 foot radius curve, concave westerly (chord bears S6°04'30"W, 71.52 feet); thence S13°41'08"W, 16.54 feet; thence southerly, 87.67 feet along the arc of a 330.00 foot radius curve, concave easterly (chord bears S6°04'30"W, 87.41 feet); thence S1°32'09"E, 8.92 feet to the point of beginning.

Said parcel contains 3,307 Sq.Ft., 0.08 acre, subject to easements and restrictions of record.

2. Plats showing the location of the property to be condemned and the interest to be acquired are attached hereto. The property referred to in Paragraph 1.a. immediately above is attached as Exhibit A and the property referred to in Paragraph 1.b. immediately above is attached hereto as Exhibit B and both plats are incorporated herein by this reference.

3. The names of the record owners, holders of liens and encumbrances and persons otherwise affected by these proceedings so far as are known to this Applicant are as follows:

Record title is vested in: Jon S. Divishek, 3113 Oak Street NE, Solon, Iowa 52333; Richard J. Divishek, 460 76<sup>th</sup> Avenue SW, Cedar Rapids, Iowa 52404; Robert J. Divishek, 200 76<sup>th</sup> Avenue SW, Cedar Rapids, Iowa 52404, as tenants in common.

Record holders of liens, mortgages and other encumbrances on such lands as far as are shown of record: Linda Lou Lefebure (formerly known as Linda Divishek), 2050 29<sup>th</sup> Avenue SW, Cedar Rapids, Iowa 52404; Crown Asset Management, LLC, c/o Registered Agent Solutions, Inc., 4900 University Avenue, Suite 110, West Des Moines, Iowa 50266; Iowa Department of Revenue, Attn: Mark Schuling, Hoover State Office Building, Des Moines, Iowa 50319.

Tenant: Leonard Jansa, 300 Western College Road, Cedar Rapids, Iowa 52404.

Basements: None shown of record

Taxes: Linn County, Iowa, c/o Linn County Auditor, 935 2<sup>nd</sup> Street SW, Cedar Rapids, Iowa 52404.

4. The condemnation is sought to acquire street right-of-way in fee simple absolute, and a temporary construction easement.
5. Applicant requests the appointment of a commission to appraise the damages.
6. Damages will not be paid by the State of Iowa and the land being condemned is not within an agricultural area as provided in Chapter 352, Code of Iowa.
7. The condemnation plat attached hereto as Exhibit A shows that portion of land which is required by the City of Cedar Rapids for the purpose of street widening and Exhibit B shows thereon the land necessary for the temporary construction easement required in conjunction with the street construction.
8. The City of Cedar Rapids made the following efforts in good faith to negotiate the purchase of the property: