

FILE COPY

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Anderson-Bogert Engineers & Surveyors, Inc.

4001 River Ridge Drive N.E.
Cedar Rapids, IA 52402-7544

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June 15, 2010

Robert P. Bryant
Rosemary Bryant
2100 Mulberry Avenue
Muscatine, IA 52761

**RE: MAD CREEK FLOOD PROTECTION IMPROVEMENTS
TRACTS #34-PE1, #34-PE2 & #40-PE**

Dear Robert P. Bryant and Rosemary Bryant:

The Mad Creek watershed drains approximately 17.3 square miles in the eastern portion of the City of Muscatine, and areas to the north in Muscatine County. Due to the nature of the watershed and intensive development in the downtown area, Mad Creek is prone to flash flooding, experiencing flooding events in 1991, 1993, and 1998.

Alternative plans for improved flood protection along Mad Creek were developed by the U.S. Army Corps of Engineers and evaluated based on appropriate engineering, economic, environmental, cultural, and social factors. Major components of the selected plan include raising the height of existing levees and existing floodwalls, a new floodwall, a new bulkhead closure gate to replace the existing panel closure at Mississippi Drive, a new overhead closure gate to replace an existing floodgate at 2nd Street, a new swing gate to replace the panel closure across the abandoned railroad just upstream on 2nd Street and installation of a new closure structure across the railroad south of Washington Street. The selected plan also includes improving a section of the Mad Creek channel upstream of 2nd Street to reduce flood stages and includes installation of an enhanced flood warning system.

In order to construct and maintain these improvements and provide for future flood control, the City of Muscatine must acquire permanent easements on your property. Tract #34-PE-1 is needed for future reconstruction of the levee on the west side of Mad Creek. The other two easements are being acquired for future creek bank maintenance. No work is proposed in these areas at this time.

The City of Muscatine is therefore offering you \$700.00 for the purchase of the needed easements, as indicated below. Enclosed is a draft "Offer of Sale of Property" for your review, with attached plats including an exact legal descriptions of the easements to be acquired. We've also enclosed a draft easement agreement for your review and comment. In addition, enclosed is a brochure entitled "Acquiring Real Property for Federal and Federal-Aid Programs and Projects", which explains your rights for the conveyance of your property.

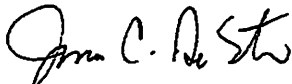
Robert P. Bryant
Rosemary Bryant
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Page 2

The amount offered as just compensation is fair and full compensation for the proposed acquisition, as determined by an independent appraiser and confirmed by a review appraiser at the U.S. Army Corps of Engineers. The City of Muscatine sincerely wishes to come to an amicable agreement with you for the acquisition of the easements on your property. I am available to explain the offer and proposed acquisition to you and am available to answer any questions or listen to any concerns you have.

Thank you for your consideration; I will be calling you in the near future to discuss the easements and offer.

Yours very truly,

ANDERSON-BOGERT
Engineers & Surveyors, Inc.



Jayne C. DeCoste, P.E.

Permanent Right-of-Way Levee Easement - #34-PE1 & #34-PE2 (3,463 SF)	\$390.00
Permanent Right-of-Way Levee Easement - #40-PE (2,729 SF)	<u>\$307.00</u>
Total	<u>\$697.00</u>
Rounded Total	\$700.00

Encl.: Draft Offer of Sale of Property
Draft Easement Agreement
Brochure Entitled "Acquiring Real Property for Federal and Federal-Aid Programs
and Projects"

cc: Mr. Steve Boka - City of Muscatine, Iowa (w/o attachments)

File: I:\207142\Prop Acquisitions - Phase I\April 2010\Tract 34_40_OFFER.doc

OFFER OF SALE OF PROPERTY

DRAFT

For value received, receipt of which is acknowledged, the undersigned (Seller) offers and agrees to sell on the terms and conditions stated herein to the City of Muscatine, Iowa (Buyer), the following described real estate in Muscatine County, Iowa:

Owned by: Robert P. Bryant and Rosemary Bryant

Legally described as: See attached

"PERMANENT RIGHT-OF-WAY LEVEE EASEMENTS"
(TRACTS #34-PE1, #34-PE2, & #40-PE)

Together with all right, title, and interest in and to any roads and rights of way abutting or in any way appertaining to said real estate.

1. **PURCHASE PRICE:** The total purchase price shall be \$700.00 (6,192 square feet permanent right-of-way levee easement), which shall be paid upon conveyance to Buyer of title to the property, upon approval thereof by legal counsel for Buyer. Said purchase price shall be full and just compensation for all obligations of Buyer hereunder and all claims which Seller may have or assert by reason of the possession or occupancy of the property of Buyer.
2. **TERMS OF CONVEYANCE:** Upon payment of the purchase price, Seller shall convey a Warranty Deed to the Buyer free and clear of liens and encumbrances, reservations, exceptions or modifications except as expressly provided in this Offer of Sale. Buyer shall pay the Iowa Transfer Tax on the conveyance and the cost of recording. The Buyer shall only pay for the necessary legal and abstracting fees related to the sale. Seller's legal and abstracting costs must be supported by invoice(s) from the appropriate vendors.
3. **POSSESSION:** Buyer shall be entitled to possession of said property on or before _____, and shall have the right to use said property to construct thereon any and all improvement contemplated.
4. **TERM AND ACCEPTANCE OF OFFER:** This offer shall remain in force for 15 days from the date hereof and thereafter until 15 days from receipt by Buyer at City Hall, Muscatine, Iowa, of written notice from Seller of termination of this offer. This offer shall be deemed accepted by Buyer upon the signing of said offer by the Mayor of the City of Muscatine, Iowa. Any additions or revisions to this signed agreement made by the seller shall be at the seller's expense.

Executed in duplication in Muscatine, Iowa, on this _____ day of _____, 20____.

Ronald P. Bryant

Rosemary Bryant

The forgoing Offer of Sale of Property is approved and accepted by the City of Muscatine, Iowa.

Dated _____, 20____

City of Muscatine, Iowa

Attest:

DRAFT

PREPARED BY AND RETURN TO
Anderson-Bogert Engineers & Surveyors, Inc., 4001 River Ridge Drive NE, Cedar Rapids, IA 52402 (319) 377-4629

PERMANENT RIGHT-OF-WAY LEVEE EASEMENT

WHEREAS, Robert P. Bryant and Rosemary Bryant, hereinafter called the "Grantor," are the owners in fee of the parcels of real estate described as Tract #34-PE, Parcel 1 and 2, a part of vacated 3rd Street, Original Plat; and Tract #40-PE, a part of Lots 4 and 5, Block 64, Original Plat, City of Muscatine, Iowa, more particularly described on attached Exhibit A;

NOW, THEREFORE, in consideration of the sum of \$700.00 and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Grantor, for themselves, their heirs, administrators, executors, successors, and assigns, for the use and benefit of the public, hereby conveys to the City of Muscatine, Iowa, an easement and right-of-way, appurtenant to Muscatine Mad Creek for a **Right-of-Way Levee Easement**: A perpetual and assignable right and easement in and to the lands for the purpose of entering thereon to construct, maintain, repair, operate, patrol, and replace a levee or flood wall, including all appurtenances thereto, and further including the right to clear, cut, fell, remove, and dispose of any and all timber, trees, underbrush, buildings, improvements, and/or other obstructions there from.

The above easement shall be taken subject to existing easements for public roads and highways, public utilities, railroads, and pipelines.

Said easement shall reserve to the landowners, their heirs and assigns, all such rights and privileges as may be used and enjoyed without interfering with the use of the project or abridging the rights and easement hereby acquired.

TO HAVE AND TO HOLD said easement and right-of-way, and all rights appertaining thereto unto the Grantee, its successors, and assigns, until said Right-of-Way Levee Easement shall be abandoned and shall cease to be used for public purposes.

It being understood and agreed that the aforesaid covenants and agreements shall run with the land and shall be binding upon the heirs, administrators, executors, successors and assigns of the Grantor until said Right-of-Way Levee Easement shall be abandoned and cease to be used for public purposes.

Grantor hereby covenants Grantor holds the real estate by title in fee simple, has good and lawful authority to convey the easement and covenants to warrant and defend the real estate against the lawful claims of all persons except as may be above stated.

DRAFT

PERMANENT RIGHT-OF-WAY LEVEE EASEMENT

Prepared by Leo D. Wooder, Anderson-Bogert Engineers & Surveyors, Inc.
4001 River Ridge Dr. N.E. Cedar Rapids, Iowa 52402

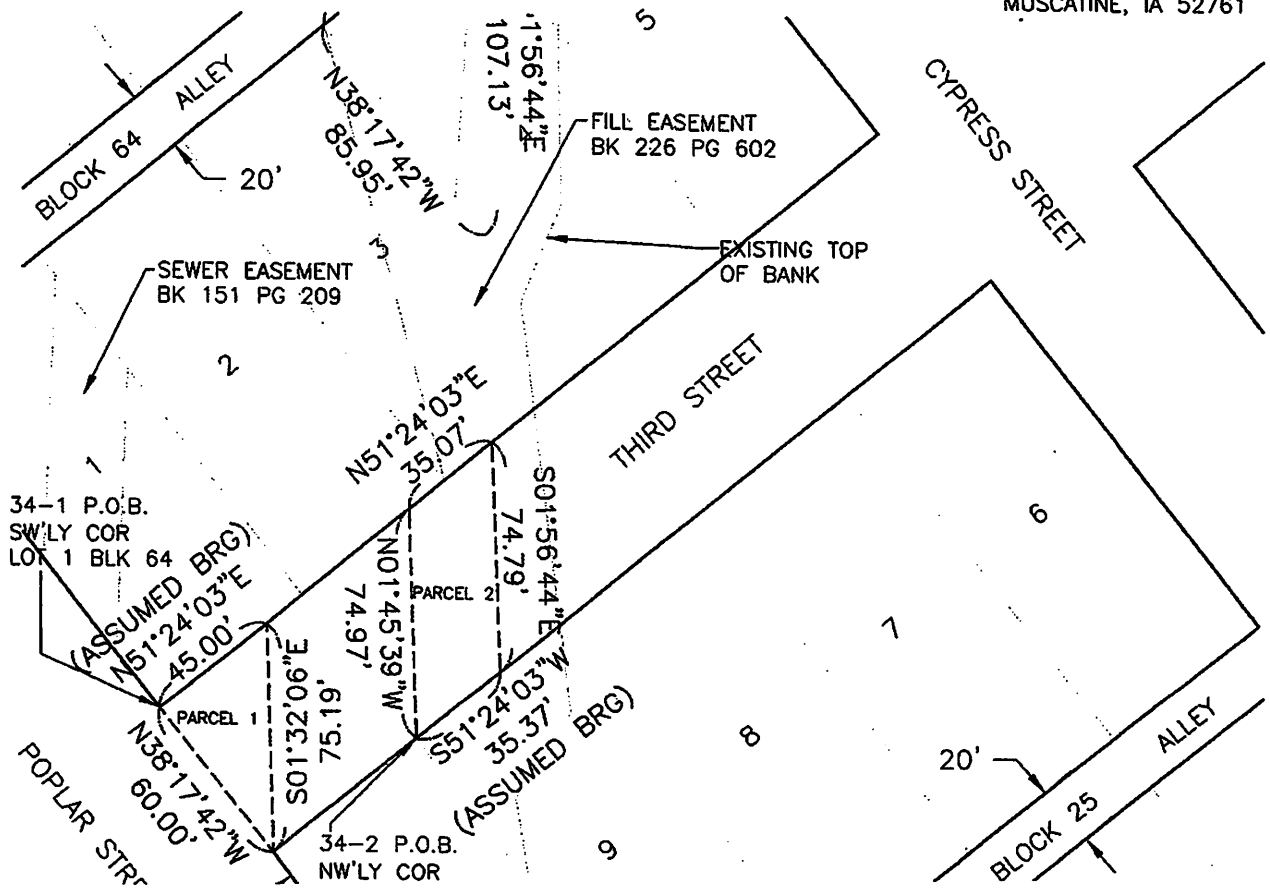


Legal Description

PARCEL 1
A PERMANENT RIGHT-OF-WAY LEVEE EASEMENT OVER PART OF VACATED THIRD STREET, ORIGINAL PLAT, CITY OF MUSCATINE, IOWA, FURTHER DESCRIBED AS FOLLOWS:
BEGINNING AT THE SOUTHWESTERLY CORNER OF LOT 1 BLOCK 64 SAID ORIGINAL PLAT;
THENCE N51°24'03"E, 45.00 FEET ALONG THE SOUTHERLY LINE OF LOT 1;
THENCE S01°32'06"E, 75.19 FEET ACROSS THIRD STREET TO THE NORTHWESTERLY CORNER OF LOT 10 BLOCK 25 SAID ORIGINAL PLAT;
THENCE N38°17'42"W, 60.00 FEET ACROSS THIRD STREET TO THE POINT OF BEGINNING, CONTAINING 0.03 ACRES (1,350 SQ.FT.). SAID PARCEL IS SUBJECT TO EXISTING EASEMENTS AND RESTRICTIONS OF RECORD.
FOR PURPOSES OF THIS DESCRIPTION THE SOUTHERLY LINE OF BLOCK 64 IS ASSUMED TO BEAR N51°24'03"E.

PARCEL 2
A PERMANENT RIGHT-OF-WAY LEVEE EASEMENT OVER PART OF VACATED THIRD STREET, ORIGINAL PLAT, CITY OF MUSCATINE, IOWA, FURTHER DESCRIBED AS FOLLOWS:
BEGINNING AT THE NORTHWESTERLY CORNER OF LOT 9 BLOCK 25 SAID ORIGINAL PLAT;
THENCE N01°45'39"W, 74.97 FEET ACROSS THIRD STREET TO THE SOUTHERLY LINE OF LOT 2 BLOCK 64 SAID ORIGINAL PLAT;
THENCE N51°24'03"E, 35.07 FEET ALONG THE SOUTHERLY LINE OF LOTS 2 AND 3 SAID BLOCK 64;
THENCE S01°56'44"E, 74.79 FEET ACROSS THIRD STREET TO THE NORTHERLY LINE OF LOT 9 BLOCK 25 SAID ORIGINAL PLAT;
THENCE S51°24'03"W, 35.37 FEET ALONG THE NORTHERLY LINE OF SAID LOT 9 TO THE POINT OF BEGINNING, CONTAINING 0.05 ACRES (2,113 SQ.FT.). SAID PARCEL IS SUBJECT TO EXISTING EASEMENTS AND RESTRICTIONS OF RECORD. FOR PURPOSES OF THIS DESCRIPTION THE NORTHERLY LINE OF LOT 9 BLOCK 25 IS ASSUMED TO BEAR S51°24'03"W.

OWNER:
ROBERT P. BRYANT
2100 MULBERRY AVE
MUSCATINE, IA 52761



TRACT #34-PE
1&2

EASEMENT PLATS
Project Number: 207142

Drawn By: MJS
Date: 11/18/08
Approved By: LDW
Scale: 1"=60'

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CITY OF MUSCATINE
215 SYCAMORE STREET
MUSCATINE, IA 52761
PHONE: (563)-262-4141

DRAFT

PERMANENT RIGHT-OF-WAY LEVEE EASEMENT

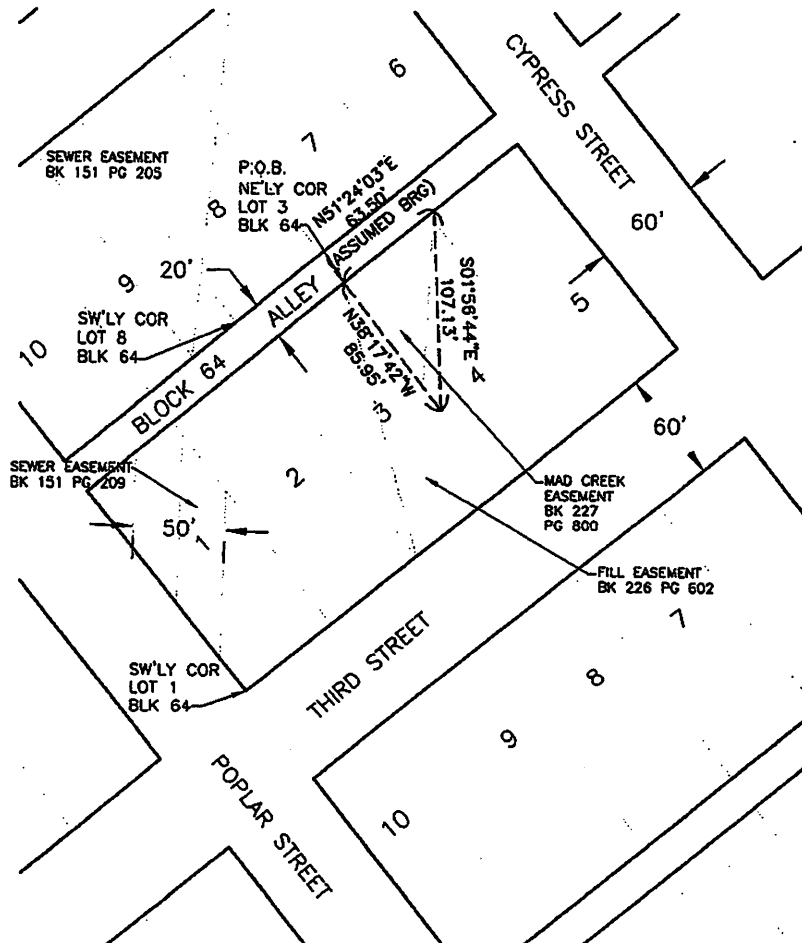
Prepared by Leo D. Wooder, Anderson-Bogert Engineers & Surveyors, Inc.
4001 River Ridge Dr. N.E. Cedar Rapids, Iowa 52402



Legal Description

A PERMANENT RIGHT-OF-WAY LEVEE EASEMENT OVER PART OF LOTS 4 AND 5 BLOCK 64, ORIGINAL PLAT, CITY OF MUSCATINE, IOWA, FURTHER DESCRIBED AS FOLLOWS:
BEGINNING AT THE NORTHWESTERLY CORNER OF SAID LOT 4 BLOCK 64;
THENCE N51°24'03"E, 63.50 FEET ALONG THE NORTHERLY LINE OF SAID LOTS 4 AND 5 BLOCK 64;
THENCE S01°56'44"E, 107.13 FEET ACROSS SAID LOTS 5 AND 4 TO THE WESTERLY LINE OF SAID LOT 4 TO THE POINT OF BEGINNING, CONTAINING 0.06 ACRES (2,729 SQ.FT.).
SAID PARCEL IS SUBJECT TO EXISTING EASEMENTS AND RESTRICTIONS OF RECORD. FOR PURPOSES OF THIS DESCRIPTION THE NORTHERLY LINES OF LOTS 4 AND 5 BLOCK 64 IS ASSUMED TO BEAR N51°24'03"E.

OWNER:
BRYANT ROOFING CO.
2100 MULBERRY AVE
MUSCATINE, IA 52761



TRACT #40-PE
EASEMENT PLATS Project Number: 207142
Drawn By: MLS Date: 11/18/08
Approved By: LDW Scale: 1"=100'
CITY OF MUSCATINE 215 SYCAMORE STREET MUSCATINE, IA 52761 PHONE: (563)-262-4141

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