

ORDINANCE NO. 2020-0362

**AN ORDINANCE VACATING RIGHT-OF-WAY LOCATED BEHIND 1000
HERSHEY AVENUE, MCKEE BUTTON**

WHEREAS, the Planning and Zoning Commission of the City of Muscatine, on October 13, 2020 and recommended approval of the vacation of a certain right-of-way located behind 1000 Hershey Avenue in the City of Muscatine, Iowa; and

WHEREAS, the City Council of the City of Muscatine, on November 5, 2020, conducted a public hearing on said vacation request.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE
CITY OF MUSCATINE, IOWA, AS FOLLOWS:**

Section I. The following described real estate be vacated by the City of Muscatine, Iowa:

**A STRIP OF LAND ADJACENT TO BLOCK 2 IN THE CITY OF MUSCATINE, MUSCATINE
COUNTY, IOWA.**

**BEGINNING AT THE NORTHEAST CORNER OF SAID BLOCK 2, THENCE SOUTH 88°07'01"
EAST 125.08 FEET ALONG THE SOUTH RIGHT OF WAY LINE OF HERSHEY AVENUE
EXTENDED TO THE APPARENT NORTHERLY RIGHT OF WAY OF THE IOWA
CHICAGO & EASTERN RAILROAD; THENCE SOUTH 53°17'56" WEST 536.51 FEET ALONG
SAID RIGHT-OF WAY TO THE WEST LINE OF SAID BLOCK 2 EXTENDED; THENCE
NORTH ALONG SAID LINE NORTH 01°34'52" EAST 96.09 FEET TO THE SOUTHWEST
CORNER OF BLOCK 2; THENCE NORTH 52°54'32" EAST 379.22 FEET ALONG THE
SOUTHERLY LINE OF BLOCK 2 TO THE POINT OF BEGINNING, CONTAINING 0.807
ACRES, MORE OR LESS.**

Vacation and Easement Plats are hereto attached as Exhibits A & B

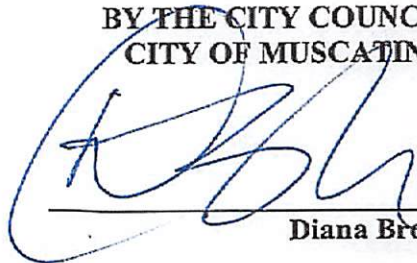
Section II. Any Ordinance or part thereof in conflict or inconsistent with the provisions of this Ordinance is hereby repealed.

PASSED, APPROVED AND ADOPTED this 19th day of November, 2020.



Attest:

**BY THE CITY COUNCIL OF THE
CITY OF MUSCATINE, IOWA**


Diana Brodersen, Mayor



Carol Webb, City Clerk

1st Reading: November 5, 2020

2nd Reading: November 12, 2020

3rd Reading: November 19, 2020



City of Muscatine



AGENDA ITEM SUMMARY

DATE:11-19-20

City Council

STAFF

Andrew Fangman, Assistant Community Development Director

SUBJECT

Ordinance Vacating Undeveloped Right-of-Way Located behind 1000 Hershey Avenue
&
Resolution Executing Deed to Convey the Vacated Right-of-Way to the Adjoining Property
Owner, McKee Button Company

EXECUTIVE SUMMARY

McKee Button Company has submitted a request to vacate and deed over the unimproved
Front Street (Mississippi Drive) right-of-way that directly adjoins the rear of their property at
1000 Hershey Avenue.

STAFF RECOMMENDATION

Staff recommends approval of the ordinance, and the subsequent resolution to execute the deed
to convey the vacated right-of-way to McKee Button Company.

BACKGROUND/DISCUSSION

The majority of the Front Street right-of-way being requested for vacation was subject to a
resolution (*Public Document No. 9892*) passed by City Council in 1905, see attached. This
resolution vacated and deeded over to the adjoining property owner the majority of Front
Street (Mississippi Drive) right-of-way that adjoins 1000 Hershey Avenue. However, the
property owner that received this deed from the City in 1905, failed to record it and no copies
of it can currently be found. This lack of a recorded deed makes it impossible to document with
100% certainty the current owner of the specific portion of the Front Street (Mississippi Drive)
right-of-way. If approved this request would allow for the City to issue a new deed, in the name
of the current adjoining property owner, resolving this issue.

Additionally, McKee Button is requesting that the City vacate and then deed over the small part
of the Front Street (Mississippi Drive) right-of-way retained by the City in 1905. Currently this
stretch of right-of-way is occupied by a gravel driveway that is solely used by McKee Button.

The subject right-of-way has not been developed as a public street and contains no public
infrastructure. In the portion that was subject of the 1905 City Council resolution numerous
buildings and structures have been constructed since 1905. The adjoining property to south is
owned by the Canadian Pacific Railroad.

The proposed purchase price of \$250 is the standard amount used in the recent disposal of right-of-way that only has value to the adjoining property owner. This price covers the City's costs of processing the transaction and makes the purchase of unneeded right-of-way attractive to adjoining property, which benefits the City by adding such real estate and any subsequent improvements to the tax rolls.

Easements to accommodate existing public infrastructure will be created as part of this vacation if it is approved.

With approval of the final reading of the ordinance vacating this right-of-way, it is then necessary for council to approve a resolution directing for the Mayor and City Clerk to sign the deed conveying this right-of-way to McKee Button Company, the adjoining property owner

CITY FINANCIAL IMPACT






Approval of this action would result in small increase in revenue. The applicant will cover transactional costs. The vacation will make the property and any future improvements upon it subject to property tax.

ATTACHMENTS

1. Map
2. Ordinance vacating right-of-way
3. A Resolution Conveying Vacated Right-of-Way to McKee Button Company
4. Deed to McKee Button Company



PVROW-8 Proposed Vacation of Right of Way Behind 1000 Hershey Avenue

-  Front Street (Mississippi Dr) Right of Way Proposed for Vacation
-  Right of Way Explicitly Retained by the City in 1905 as Front Street
-  Right of Way Subject Vacation Resolution in 1905
-  McKee Button Property - 1000 Hershey Ave
-  Parcel Lines

0 60 120 240 Feet



RESOLUTION

Directing the Mayor and City Recorder to Execute, Seal and Deliver a Certain Quit Claim Deed to the Hershey Lumber Company.

Whereas, A certain deed of release and conveyance has been tendered to the City by the Hershey Lumber Company, conveying to said City certain ground necessary to widen Green Street, also for an extension of Busch and Pearl Streets, Bismark Avenue and the alley in Block Thirty (30), and as a part of Mill Street, and as a part of Front Street, for landing purposes:

And, Whereas, Said grant by said company was upon the condition that the City release and quit claim to the said Hershey Lumber Company, certain grounds which were formerly in the bed of Muscatine Slough, and also a portion of the ground lying South of Block Two (2) in the City of Muscatine, Iowa.

Therefore, be it resolved by the City Council of the City of Muscatine, that the Mayor and City Recorder be, and they are hereby directed to execute in behalf of said City, the certain deed of release herewith presented; the same to be delivered to said Hershey Lumber Company on receipt of the deed from said Hershey Lumber Company to the City, properly executed and acknowledged.

Adopted and approved this 17th day of April, 1905.

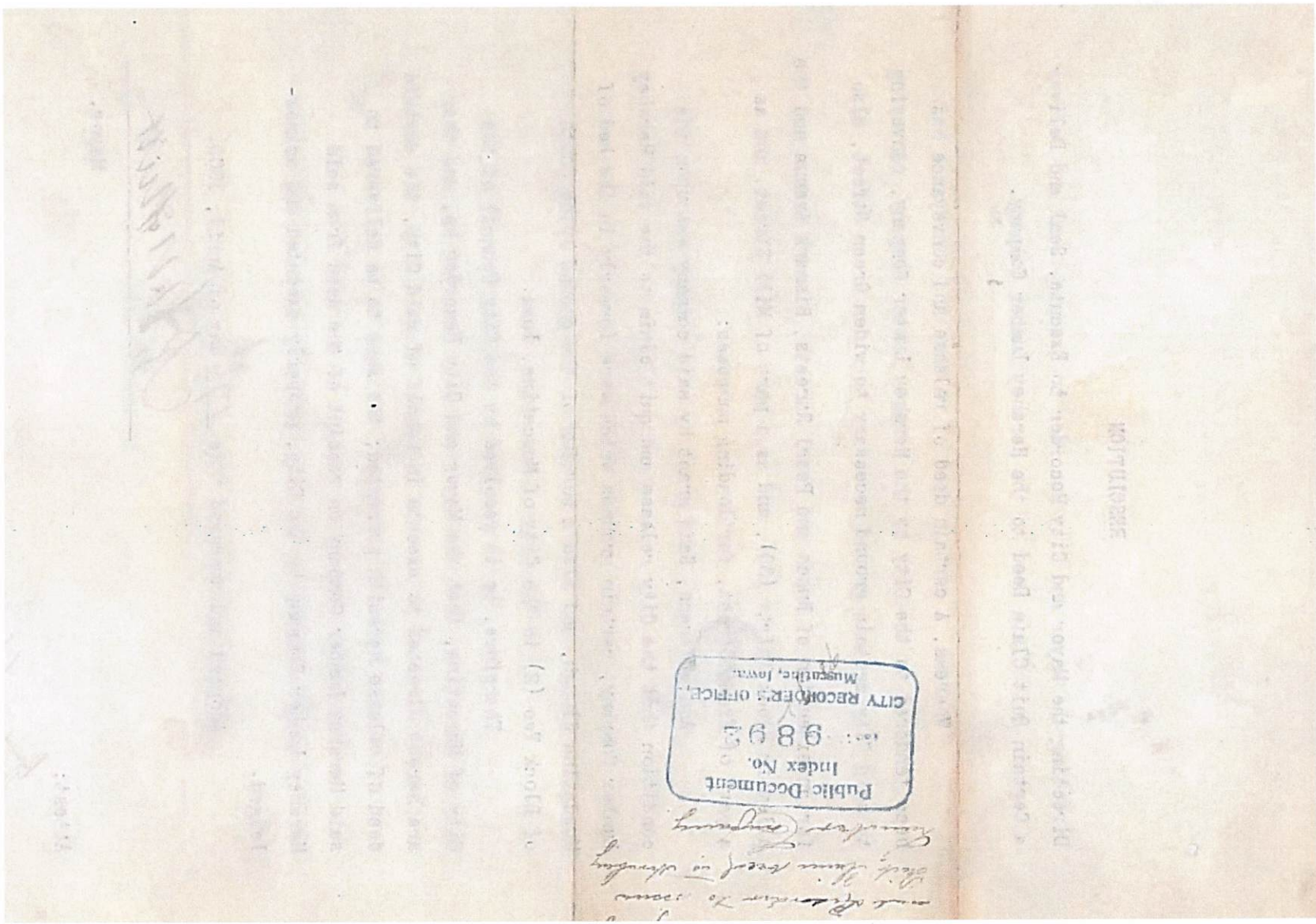
[Handwritten Signature]

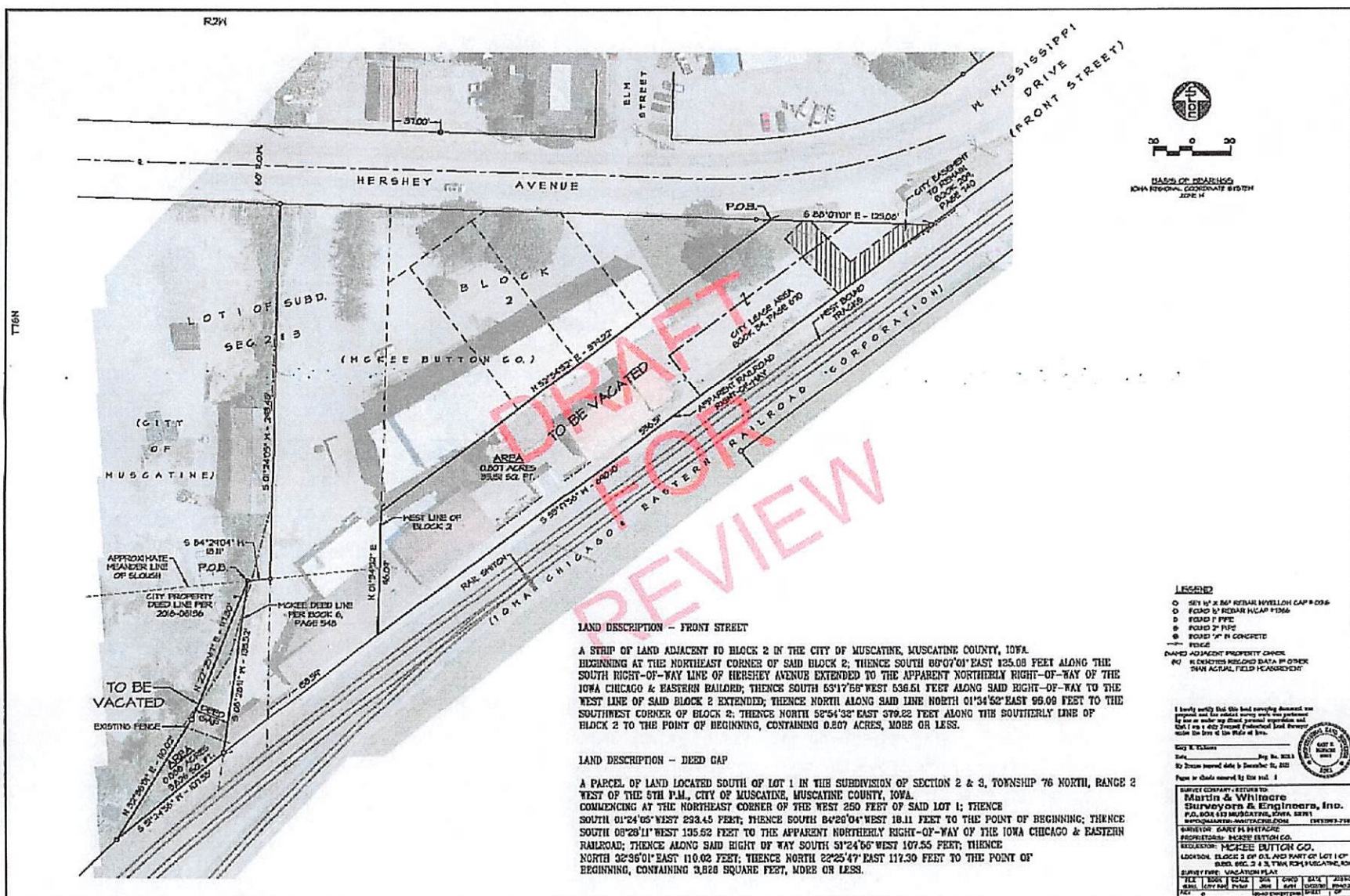
Mayor.

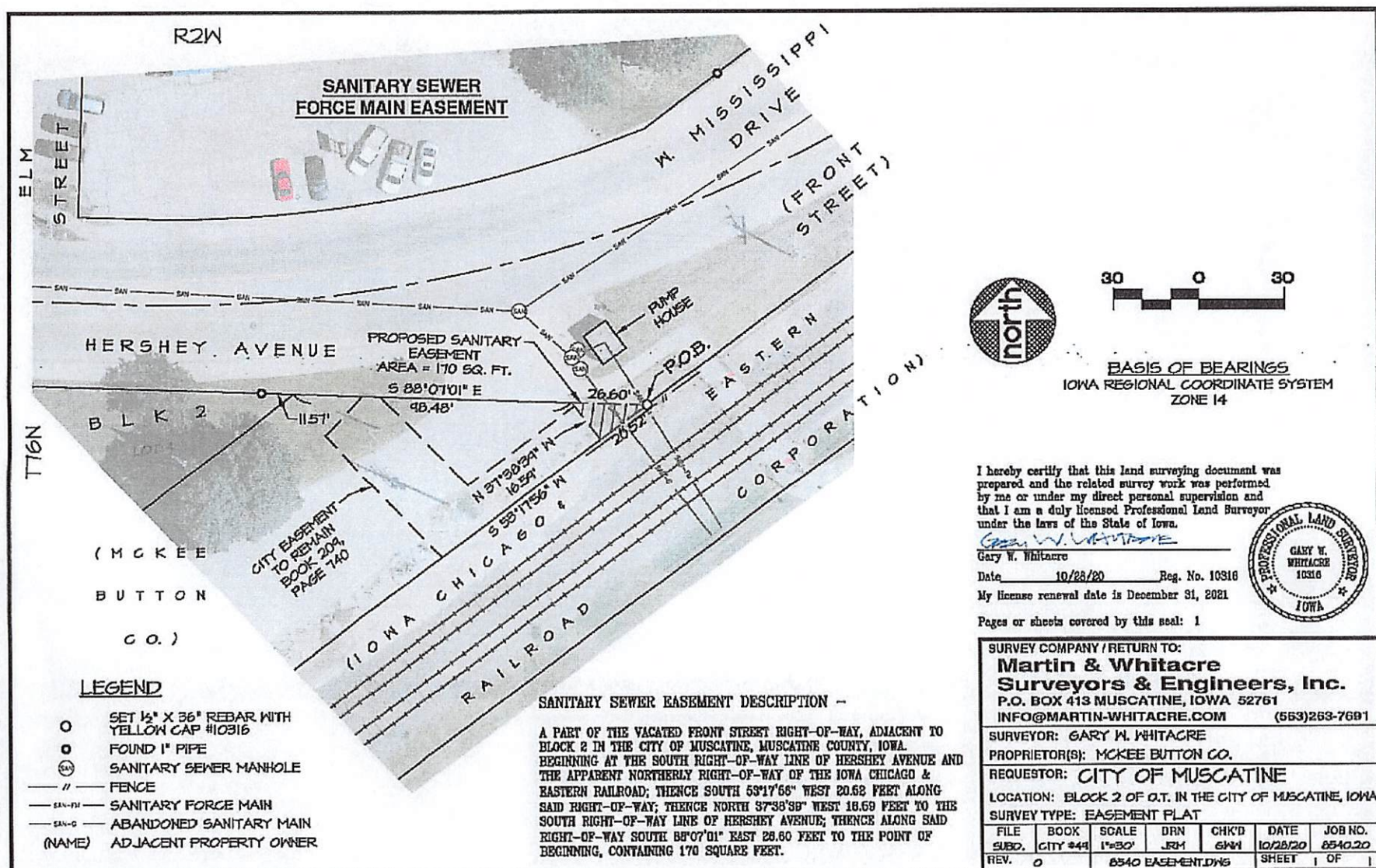
Attest:

[Handwritten Signature]
City Recorder.

[Handwritten "d. it" in a circle]







*** Proof of Publication ***

The undersigned, being first duly sworn, on oath does say that he/she is an authorized employee of THE MUSCATINE JOURNAL, morning edition, a daily newspaper printed and published by Lee Enterprises, Incorporated, in the City of Davenport, Scott County, Iowa, and that a notice, a printed copy of which is made a part of this affidavit, was published in said THE MUSCATINE JOURNAL, on the dates listed below.

CITY OF MUSCATINE- Legals account

215 Sycamore Street
MUSCATINE, IA 52761

ORDER NUMBER 83382

The affiant further deposes and says that all of the facts set forth in the foregoing affidavit are true as he/she verily believes.

PUBLIC NOTICE
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BY THE CITY COUNCIL OF THE CITY OF MUSCATINE, IOWA

/s/Diana Brodersen, Mayor

Attest:

/s/Carol Webb, City Clerk

1st Reading: November 5, 2020

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Section: Notices & Legals

Category: 2635 Legal Ordinance

PUBLISHED ON: 11/30/2020

TOTAL AD COST: 38.26

FILED ON: 11/30/2020

Subscribed and sworn to before me by said affiant this 30 day of Nov. 2020.

Danine Glascock

Notary Public in and for Scott County, Iowa

