



City of Muscatine



AGENDA ITEM SUMMARY

DATE: 11/18/2021

City Council

STAFF

April Limburg, Planner

SUBJECT:

A Resolution Authorizing Establishing a Sewer Easement on Undeveloped Lombard Street Right of Way

EXECUTIVE SUMMARY:

Presented for City Council's consideration is a Resolution establishing a sewer easement on the vacated undeveloped Lombard Street right of way. To allow for continued use and maintenance of the utilities an easement needs to be established prior to the deeding of this right of way to the adjoining property owner.

STAFF RECOMMENDATION

Staff recommends Council approve the attached resolution approving a sewer easement.

BACKGROUND/DISCUSSION

In June of 2019, Patrick Garrels, owner of Garrels Enterprises, Lllp, purchased 1100 E 7th Street from Andy Hartsock. The property is currently a rental property. In the future, he would like to construct a garage on the property, as there currently is not one. This easement will accommodate existing and future utilities running through the right of way being proposed for vacation.

CITY FINANCIAL IMPACT

There is no financial impact of this action.

ATTACHMENTS

1. Resolution Approving a Utility Easement
2. Public Utility Easement

RESOLUTION NO. 2021-0428

A RESOLUTION APPROVING A UTILITY EASEMENT FOR THE UNDEVELOPED RIGHT OF WAY OF LOMBARD STREET OF THE ORIGINAL TOWN IN THE CITY OF MUSCATINE, MUSCATINE COUNTY, IOWA

WHEREAS, the City of Muscatine has vacated and desires to deed over to the adjoining property owner the undeveloped Lombard Street Right of Way; and

WHEREAS, public sewer exists within said vacated right of way; and

WHEREAS, to allow for the continued use and maintenance of the utilities an easement must be created; and

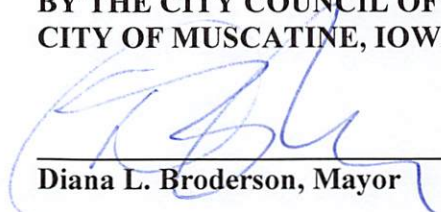
WHEREAS, an easement for the purpose of accessing the Easement Area to reconstruct, maintain, operate, replace, repair, patrol or remove, whenever necessary, and all appurtenant facilities located in that portion of Lombard Street in the City of Muscatine, Iowa, between the south line of Seventh Street and the South Alley Line in Blocks One Hundred Eleven and One Hundred Twelve (111 & 112) of the Original Town in the City of Muscatine has drafted as is attached hereto as Exhibit A.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MUSCATINE, IOWA, that the easement attached as exhibit A is approved and will be signed by the Mayor and attested by the City Clerk.

PASSED, APPROVED AND ADOPTED this 18th day of November 2021.



BY THE CITY COUNCIL OF THE CITY OF MUSCATINE, IOWA



Diana L. Broderson, Mayor

Attest:



Carol Webb, City Clerk

Prepared by: [April Limburg, Planner, City of Muscatine, IA, 215 Sycamore St., Muscatine, IA 52761 (563) 262-4141]
Return to: [April Limburg, Planner, City of Muscatine, IA, 215 Sycamore St., Muscatine, IA 52761 (563) 262-4141]

PUBLIC SEWER EASEMENT

The **CITY OF MUSCATINE, IOWA**, an Iowa municipal corporation, hereby reserves onto itself, its successors and assigns (the "City") a permanent Public Utility Easement (hereinafter the "Easement") upon, under, over, through and across real property [as shown and] legally described on the attached Exhibit A, located in the City of Muscatine, Iowa, hereinafter the "Easement Area."

1. Purpose of Easement

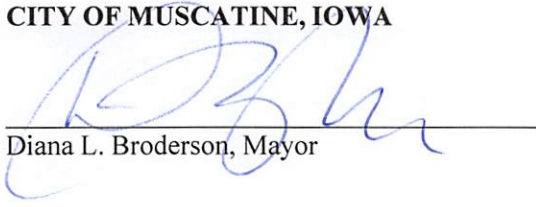
This Easement shall be for the purpose of accessing the Easement Area to construct, maintain, operate, replace, repair, patrol or remove, whenever necessary, the public sewer and all appurtenances located in the Easement Area. The City maintains the right to use the Easement Area for the future placement of above ground or underground utilities which serves a public purpose.

2. Access Rights

The City shall also have the specific rights of ingress and egress to the Easement Area for the reconstruction, maintenance, operation, replacement, repair, patrolling or removal, whenever necessary, of the public utility and appurtenant public utility facilities, consistent with the easement provided herein. The City shall also have the right to remove impediments to the Easement Area such as trees, asphalt and sidewalks. The City agrees to take all reasonable measures to minimize any disruption to the Easement Area or minimize loss of access to the Easement Area. The public utility and appurtenant public utility facilities shall at all times remain the property of the City.

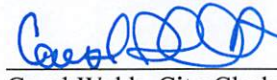
- 3. Maintenance of Easement; Restoration of Easement Area.** The Grantee shall keep the public utility and appurtenant public utility facilities in the Easement Area in good repair and condition at all times. Upon completion of any reconstruction, maintenance, operation, replacement, repair, or removal of the public utility and any appurtenant public utility facilities in the Easement Area, the Grantee shall restore the Easement Area in good and workmanlike manner to a condition comparable to its condition as it was prior to such activity as is practical, including the replacement of trees and/or landscaping. The terms of this Easement do not obligate the City to perform any work or make repairs to the Easement Area for impairments or other damages caused by other individuals or entities other than the City or its contractors.
- 4. Warranty.** The City warrants it holds title to the Easement Area in fee simple and has good and lawful authority to grant the rights provided in this Easement.
- 5. Easement Runs with the Land.** This Easement shall be perpetual, permanent and runs with the land and shall be binding on the City and on the City's successors and assigns.
- 6. Headings and Governing Law.** The headings included herein are for reference only and should not be used in construing any of the terms hereof. This Easement shall be construed and enforced in accordance with the laws of the State of Iowa.

CITY OF MUSCATINE, IOWA



Diana L. Broderson, Mayor

Attest:



Carol Webb, City Clerk

STATE OF IOWA)
) SS
COUNTY OF MUSCATINE)

On this 18 day of NOV, 2021 before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Diana L. Broderson and Carol Webb, to me known to be the Mayor and City Clerk, respectively, of the City of Muscatine Iowa, that this record was signed on behalf of the City, by authority of its City Council as contained in Resolution No. 8001-0428 approved on the 18 day of November, 2021 by the City Council of the City of Muscatine, Iowa, and that the Mayor and City Clerk acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the City, by it voluntarily executed.


NOTARY PUBLIC



Cinda L. Hilger
Iowa Notarial Seal
Commission Number: 753850
My commission expires: 7-23-24

Exhibit A

THAT PORTION OF LOMBARD STREET IN THE CITY OF MUSCATINE, IOWA, BETWEEN THE SOUTH LINE OF SEVENTH STREET AND THE SOUTH ALLEY LINE IN BLOCKS ONE HUNDRED ELEVEN AND ONE HUNDRED TWELVE (111 & 112) OF THE ORIGINAL TOWN