



# City of Muscatine



## AGENDA ITEM SUMMARY

DATE: 12/2/2021

City Council

### STAFF

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April Limburg, Planner

### SUBJECT:

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Resolution Establishing an Easement in the Alley Right of Way Between 1248 and 1300 E 5<sup>th</sup> Street

### EXECUTIVE SUMMARY:

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Presented for City Council's consideration is a resolution establishing a utility easement in the alley between 1248 and 1300 E 5th Street right of way to allow for the continued use and maintenance of the water main or other utilities. This alleyway has been vacated and an easement must be established prior to the deeding of this right of way to the adjoining property owners.

### STAFF RECOMMENDATION

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Staff recommends Council approve the attached resolution approving the utility easement.

### BACKGROUND/DISCUSSION

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The City of Muscatine has filed for the vacation of the right of way in the alley between 1248 E 5<sup>th</sup> St and 1300 E 5<sup>th</sup> St. The intent following establishment of the easement, if approved by the City Council, is to deed the vacated right of way to the adjacent property owners.

### CITY FINANCIAL IMPACT

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There is no financial impact of this action.

### ATTACHMENTS

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

**RESOLUTION NO. 2021-0440**

**A RESOLUTION APPROVING A WATER MAIN EASEMENT FOR THE ALLEY RIGHT OF WAY BETWEEN 1248 AND 1300 E 5<sup>th</sup> 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 owners the Alley Right of Way; and

**WHEREAS**, public water main 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

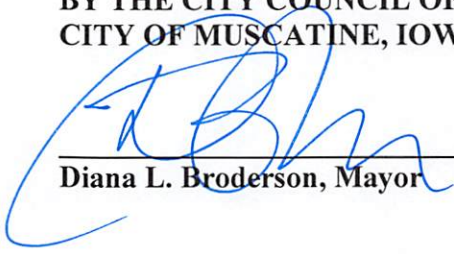
**WHEREAS**, an easement for the purpose of accessing the Easement Area to reconstruct, maintain, operate, replace, repair, patrol or remove, whenever necessary, and all appurtenant facilities located in that all of the alley adjacent to Lot 5 in Block 6 of Brogan's Addition and the East two-thirds of Lot One (1) in Block Five (5) of Brogan's Addition to the City of Muscatine, in Muscatine County, Iowa 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 2<sup>nd</sup> day of December 2021.**



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

  
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Diana L. Broderson, Mayor

**Attest:**



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Carol Webb, City Clerk

Prepared by: [April Limburg, Planner 1, City of Muscatine, IA, 215 Sycamore St., Muscatine, IA 52761 (563) 262-4141]  
Return to: [April Limburg, Planner 1, City of Muscatine, IA, 215 Sycamore St., Muscatine, IA 52761 (563) 262-4141]

## **PUBLIC WATER MAIN 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**

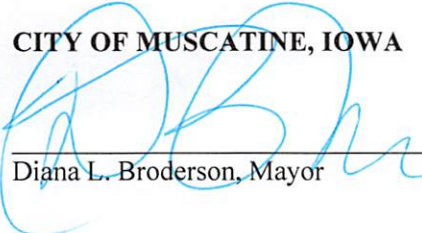
This Easement shall be for the purpose of accessing the Easement Area to construct, maintain, operate, replace, repair, patrol or remove, whenever necessary, the public water main and all appurtenances located in the Easement Area. The City maintains the right to use the Easement Area for the future 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 2nd day of December, 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. 2021-0440 approved on the 2nd day of December, 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.

  
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Cinda Hilger, NOTARY PUBLIC



**Cinda L. Hilger**  
Iowa Notarial Seal  
Commission Number: 753850  
My commission expires: 7-22-23

**Exhibit A**

**ALL OF THE ALLEY ADJACENT TO LOT 5 IN BLOCK 6 OF BROGAN'S ADDITION AND THE EAST TWO-THIRDS OF LOT ONE (1) IN BLOCK FIVE (5) OF BROGAN'S ADDITION TO THE CITY OF MUSCATINE, IN MUSCATINE COUNTY, IOWA**