

RESOLUTION NO. _____

**SETTING A PUBLIC HEARING ON THE INTENT TO ACQUIRE OR
CONDEMN IF NECESSARY ALL OR A PORTION OF PROPERTY OR AN
INTEREST IN PROPERTY FOR THE PUBLIC IMPROVEMENT FOR THE
CITY OF MUSCATINE SANITARY LANDFILL PROJECT**

WHEREAS, I.C.A. § 6B.2A requires an acquiring agency to provide written notice of a public hearing to each owner of record of agricultural land that may be the subject of condemnation; and

WHEREAS, the City Council finds that it may be necessary to acquire or condemn all or a portion of property an interest in the following-described property for the City of Muscatine Sanitary Landfill Project:

LAND DESCRIPTION – PARCEL “C”

A PARCEL OF LAND LOCATED IN THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 78 NORTH, RANGE 1 EAST OF THE 5TH P.M., MUSCATINE COUNTY, IOWA.

COMMENCING AT THE WEST QUARTER CORNER OF SECTION 34; THENCE NORTH 89°12'16" EAST 904.89 FEET ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF SECTION 34; THENCE SOUTH 01°19'56" EAST 155.30 FEET TO THE SOUTHERLY RIGHT OF WAY OF U.S. HIGHWAY 61 AND THE POINT OF BEGINNING; THENCE SOUTH 81°02'11" EAST 66.10 FEET ALONG SAID RIGHT OF WAY; THENCE NORTH 72°30'33" EAST 57.22 FEET ALONG SAID RIGHT OF WAY; THENCE SOUTH 01°19'56" EAST 661.02 FEET; THENCE SOUTH 88°40'04" WEST 120.00 FEET; THENCE NORTH 01°19'56" WEST 656.91 FEET TO THE POINT OF BEGINNING. PARCEL “C” CONTAINS 1.80 ACRES AND IS SUBJECT TO EASEMENTS OF RECORD.

LAND DESCRIPTION – PARCEL “D”

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(the **Property**); and

WHEREAS, the owners of the **Property** are Stockton Realty Co.

WHEREAS, a public hearing should be set on the intent to acquire or condemn, if necessary, all or a portion of the **Property** or an interest in the **Property**; and

WHEREAS, notice of the public hearing should be published and mailed as required by law to the Owners of the **Property**.

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

The City Clerk is hereby authorized and directed to cause a notice in the form attached hereto to be mailed to the Owners and published as prescribed by I.C.A. § 6B.2A of a public hearing on the City's intent to acquire or condemn, if necessary, all or a portion of the **Property** or an interest in the **Property**, to be held on the 16th day of October, 2014, at 7:00 o'clock p.m. at the City Hall Council Chambers.

Passed, approved and adopted this 18th day of September, 2014.

CITY OF MUSCATINE, IOWA

DeWayne M. Hopkins, Mayor

ATTEST:

Gregg Mandsager, City Clerk

NOTICE FOR PUBLICATION

Location of Agricultural Land: 3672 Highway 61
Blue Grass, Iowa

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A PARCEL OF LAND LOCATED IN THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 78 NORTH, RANGE 1 EAST OF THE 5TH P.M., MUSCATINE COUNTY, IOWA.

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- a. The City Council is considering the expansion of the Muscatine County Sanitary Landfill. This expansion will require the acquisition or condemnation of property.
- b. The City may acquire part or all of the property or an interest in the property by condemnation for the public improvement.

- c. The City will hold a Public Hearing on the proposed acquisition, and if approved, the City will continue good-faith negotiations for the purchase of the property.
- d. A Public Hearing on the City's intent to acquire or condemn, if necessary, all or a portion of the property shall be held on October 16, 2014, at 7:00 o'clock p.m. at the City Hall Council Chambers.
- e. Persons desiring further information regarding the proposed public improvement project or its impact on the property identified above may contact by mail, e-mail, or telephone:

Patrick T. Burk
Brick Gentry, P.C.
6701 Westown Parkway, Ste. 100
West Des Moines, IA 50266
E-mail: Pat.burk@brickgentrylaw.com
Phone: (515) 274-1450



BRICK GENTRY P.C.

ATTORNEYS & COUNSELORS at LAW

PATRICK T. BURK
ATTORNEY

TELEPHONE: 515-274-1450

FACSIMILE: 515-274-1488

E-MAIL: patrick.burk@brickgentrylaw.com

September 12, 2014

VIA E-MAIL AND REGULAR MAIL

Timothy L. Baumann
Norton, Baumann & Surls, PLLC
504-8 Main Street
P.O. Box 100
Lowden, IA 52255

Re: City of Muscatine/Stockton Realty Co.

Dear Tim:

Enclosed please find a copy of the Notice of Intent to Commence a Public Improvement Project for the City of Muscatine Sanitary Landfill Project which was mailed by Regular Mail to your client on September 12, 2014. Note that the public hearing is scheduled for October 16, 2014. Please contact me if you have any questions.

Very truly yours,

Patrick T. Burk

PTB/kkh
Enclosure

**NOTICE OF INTENT TO COMMENCE A PUBLIC IMPROVEMENT PROJECT
FOR THE CITY OF MUSCATINE SANITARY LANDFILL PROJECT**

Location of Agricultural Land: 3672 Highway 61
Blue Grass, Iowa

**TO: Stockton Realty Co. (Owner)
and
Blue Grass Savings Bank (Lienholder)**

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Under the provisions of I.C.A. §§ 6B.1 et seq., a governmental body which proposes to acquire agricultural land under power of eminent domain for a public improvement project is required to give notice of intent to commence the project to all owners of such agricultural land whose properties may be acquired in whole or in part for the project. See I.C.A. §§ 6A.21(a), 6B.2a.

1. DESCRIPTION OF THE PROJECT.

NOTICE IS HEREBY GIVEN to the above-identified owners of agricultural land that the **City Council of the City of Muscatine** will consider authorizing the commencement of a project to expand the City of Muscatine Sanitary Landfill.

2. PRIVATE PROPERTY MAY BE ACQUIRED BY PURCHASE OR CONDEMNATION.

If the above-described project is approved by the **City Council**, the **City** will be required to acquire **property** for the project improvements. Upon review of Muscatine County **property** records, it appears that agricultural land owned by the above-identified persons may have to be acquired in whole or in part for the project. The **City** will attempt to **purchase** the required agricultural land by good-faith negotiations, and it may condemn those **properties** which it is unable to **purchase**. The proposed location of the above-described public improvement is shown on a conceptual drawing of the project which is now on file in the office of the **City Clerk** and available for public inspection.

3. CITY PROCESS TO DECIDE TO PROCEED WITH THE PROJECT AND TO ACQUIRE PROPERTY; CITY COUNCIL ACTION REQUIRED TO PROCEED WITH PROJECT; OPPORTUNITY FOR PUBLIC INPUT.

In making the decision to proceed with the above-described project and to authorize the acquisition of **property** and **property** interests, the **City Council** is required to hold a public hearing, giving persons interested in the proposed project the opportunity to present their views regarding the project, and regarding the proposed acquisition of **property** for the project. The public hearing on the project will be held during the **City Council's** regularly scheduled meeting on the **16th day of October, 2014**, at Muscatine, Iowa, commencing at **7:00 p.m.** In order for the **City** to proceed with the above-described project and commence the acquisition of **property** for the project, the **City Council** will be required to approve the project and authorize acquisition of private **property** for the project by Council resolution. The **City Council** is scheduled to consider adoption of the resolution initiating the above-described project following the public hearing.

An appraiser retained by the **City** will determine the compensation to be paid for **property** or **property** interests that are needed for the project. The **City** will offer no less than the appraised value and will attempt to **purchase** only the needed **property** by good-faith negotiations. If the **City** is unable to acquire **properties** needed for the project by negotiation, the **City** will acquire those **properties** by condemnation.

4. CONTACT PERSON.

Persons desiring further information regarding the proposed public improvement project or its impact on the **properties** identified above may contact by mail, e-mail, or telephone:

Patrick T. Burk
Brick Gentry, P.C.
6701 Westown Parkway, Ste. 100
West Des Moines, IA 50266
E-mail: Patrick.burk@brickgentrylaw.com
Phone: (515) 274-1450

5. STATEMENT OF RIGHTS.

Just as the law grants certain entities the right to acquire private **property**, you as the owner of **property** have certain rights. You have the right to:

- a. Receive just compensation for the taking of **property**. (Iowa Constitution, Article I, Section 18)
- b. An offer to **purchase** which may not be less than the lowest appraisal of the fair market value of the **property**. (I.C.A. §§ 6B.45, 6B.54)
- c. Receive a copy of the appraisal, if an appraisal is required, upon which the acquiring agency's determination of just compensation is based not less than 10 days before being contacted by the acquiring agency's acquisition agent. (I.C.A. § 6B.45)
- d. When an appraisal is required, an opportunity to accompany at least one appraiser of the acquiring agency who appraises your property. (I.C.A. § 6B.54)
- e. Participate in good-faith negotiations with the acquiring agency before the acquiring agency begins condemnation proceedings. (I.C.A. § 6B.3(1))
- f. If you cannot agree on a purchase price with the acquiring agency, a determination of just compensation by an impartial compensation commission and the right to appeal its award to district court. (I.C.A. §§ 6B.4, 6B.7 and 6B.18)

- g. A review by the compensation commission of the necessity for the condemnation if your **property** is agricultural land being condemned for industry. (I.C.A. § 6B.4A)
- h. Payment of the agreed upon **purchase** price, or if condemned, a deposit of the compensation commission award before you are required to surrender possession of the **property**. (I.C.A. §§ 6B.25, 6B.54(11))
- i. Reimbursement for expenses incidental to transferring title to the acquiring agency. (I.C.A. §§ 6B.33, 6B.54(10))
- j. Reimbursement of certain litigation expenses: (1) if the award of the compensation commissioners exceeds 110% of the acquiring agency's final offer before condemnation; and (2) if the award on appeal in court is more than the compensation commissioner's award. (I.C.A. § 6B.33)
- k. At least 90 days' written notice to vacate occupied property. (I.C.A. § 6B.54(4))
- l. Relocation services and payments, if you are eligible to receive them, and the right to appeal your eligibility for and amount of payments. (I.C.A. § 316.9)

The rights set out in this Statement are not claimed to be a full and complete list or explanation of an owner's rights under the law. They are derived from I.C.A. §§ 6A.1 et seq., 6B.1 et seq., and I.C.A. § 316.1. For a more thorough presentation of an owner's rights, you should refer directly to the Iowa Code or contact an attorney of your choice.

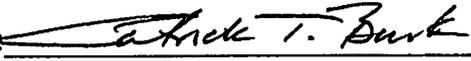
This Notice is given by authority of the **City Council** of the **City** of Muscatine, Iowa.

Mailed to all affected **Property Owners** on the 12th day of September, 2014.

Owner:
Stockton Realty Company
c/o Lyndall M. Winter, Registered Agent
3672 Highway 61, RR
Blue Grass, IA 52726-9423

Lienholder:
Blue Grass Savings Bank
104 E. Mayne St.
Blue Grass, IA 52726

BRICK GENTRY, P.C.

By: 

Patrick T. Burk
6701 Westown Parkway, Suite 100
West Des Moines, IA 50266
Telephone: (515) 274-1450
Facsimile: (515) 274-1488
E-mail: patrick.burk@brickgentrylaw.com
ATTORNEYS FOR CITY OF MUSCATINE