



1459 Washington St.  
Muscatine, IA 52761-5040  
(563) 263-8933  
Fax (563) 263-2127

Public Works

City Transit  
263-8152

## MEMORANDUM

Equipment Maintenance  
Roadway Maintenance  
Collection & Drainage  
Building & Grounds  
Engineering

To: Gregg Mansager, City Administrator,  
Brian Stineman, Public Works Director  
FROM: Jim Edgmond, City Engineer  
DATE: May 01, 2018  
RE: Approve permanent easement for storm sewer in side yard of Witkoske property at 1616 Willow Street.

### INTRODUCTION:

This spring the city is planning to fix a storm sewer/ drainage problem that has existed on Willow Street for many years. The primary fix for this area is to install a small storm sewer and this easement is for this storm sewer. The property owner has signed the agreement and the city needs to pass a resolution to accept the easement and sign the easement agreement so it can be recorded and the project can start.

### BACKGROUND:

The plan for the easement is to construct a storm sewer from the front of this property to the back lot line and then go north along the property line to outlet the storm water at a place where the water can flow by gravity to an existing drainage way. This storm sewer will minimize the localized flooding that occurs at this intersection.

Negotiations have been concluded for the easement with the owner and removal of a large tree and draining a low spot in the backyard are conditions of the agreement. No money is to be expended to the owner for this easement.

### RECOMMENDATION/RATIONALE:

It is requested that city council approve the resolution to accept the permanent easement and record such once the necessary city signatures have been placed on the agreement.

### BACKUP INFORMATION:

1. Attachment 1. Copy of the easement agreement.

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION TO ACCEPT  
WITKOSKE STORM SEWER AND DRAINAGE EASEMENT**

WHEREAS, the City of Muscatine is undertaking a project to upgrade and improve surface drainage at 1616 Willow Street; and

WHEREAS, it is necessary for the City to obtain this permanent easement; and

WHEREAS, this property owner has agreed to conditions for this easement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MUSCATINE, that this acquisition from the property owner be accepted by the City under the conditions and for the considerations described in the acquisition document.

PASSED, APPROVED, ADOPTED THIS 3<sup>rd</sup> DAY OF MAY, 2018.

CITY COUNCIL OF THE CITY OF MUSCATINE, IOWA

BY: \_\_\_\_\_  
Diana Broderson, Mayor

ATTEST:

\_\_\_\_\_  
Gregg Mandsager, City Clerk

Exhibit A

**WHEN RECORDED RETURN TO:**  
Andrew Fangman  
City Planner  
City of Muscatine  
215 Sycamore Street  
Muscatine, Iowa 52761

Preparer Information: Andrew Fangman, City Planner, City of Muscatine, 215 Sycamore St, Muscatine, IA 52761, 563.262.4141

***PERMANENT EASEMENT FOR STORM SEWER INSTALLATION***

In consideration of the covenants and obligations set forth herein and other good and valuable consideration in the sum of One Dollar (\$1.00) paid by Grantee to Grantor, the receipt of which is hereby acknowledged, Martin Witkoske as Trustee of The Revocable Trust Agreement of Martin Witkoske, (hereinafter called Grantor), does hereby grant to the City of Muscatine (City) a perpetual Storm Sewer Easement and a perpetual Easement for Surface Water Flowage under, over, through and across the following described real estate: (hereinafter called "Easement Area") for the purpose of the Jurisdiction constructing, reconstructing, repairing, enlarging and maintaining a storm sewer, together with necessary appurtenances thereto, under, over, through and across said Easement Area as well as for the purpose of the City constructing, reconstructing, repairing, grading, and maintaining the surface of said Easement Area in a manner that will permit the free and unobstructed flow of surface water over the Easement Area.

THE EASEMENT GRANTED FOR IS TO LAND DESCRIBED AS FOLLOWS:

THE NORTH 15 FOOT OF PARCEL "B"AS DESCRIBED IN DEED RECORDED AT DOCUMENT # 2006-01725, OFFICE OF RECORDER, MUSCATINE COUNTY, IOWA.

This easement is given in fulfillment of the terms of this agreement dated \_\_\_\_\_ and recorded in the Muscatine County Recorder's Office except those terms that survive the execution of this document.

This Easement shall be subject to the following terms and conditions:

- 1. ERECTION OF STRUCTURES PROHIBITED. Grantor shall not erect any above-ground structures, fencing, or other impediments to storm water flow over or within the Easement Area without obtaining the prior written approval of the City Engineer. The Grantor agrees to hold the City harmless for

damages to any structures or personal or real property within the Easement Area as a consequence of storm water flow through the Easement Area. Any temporary structures (including paving and fencing) placed in the Easement Area will be removed by the owner of the land when requested by the City.

**2. OBSTRUCTIONS PROHIBITED.** Grantor shall not erect or cause to be placed on the Easement Area any structure, material, device, thing, or matter which could possibly obstruct or impede the normal flow of surface water over the Easement Area without obtaining the prior written approval of the City Engineer. The only ground cover allowed in the Easement Area is vegetation, or as otherwise permitted by the City.

**3. CHANGE OF GRADE PROHIBITED.** Grantor shall not change the grade, elevation or contour of any part of the Easement Area without obtaining the prior written consent of the City Engineer.

**4. RIGHT OF ACCESS.** The City shall have the right of access to the Easement Area and have all rights of ingress and egress reasonably necessary for the use and enjoyment of the Easement Area as herein described, including, but not limited to, the right to remove any unauthorized obstructions or structures placed or erected on the Easement Area.

**5. ADDITIONAL IMPROVEMENTS TO BE MADE BY THE CITY.** The City shall remove the large tree behind the house closest to the property line on the north side. The City shall also remove the two small trees on the north side of the house within the easement area and they will not be replaced. The City shall grade from the low spot in the back yard to provide an emergency overland flow route to the north that would drain the low spot to the fullest extent possible.

**6. EASEMENT RUNS WITH LAND.** This Easement shall be deemed to run with the land and shall be binding on Granter and on Grantor's successors and assigns.

**7. APPROVAL BY CITY.** This Easement shall not be binding until it has received the final approval and acceptance by the City by Resolution.

Granters do hereby covenant with the City, and successors in interest, that granters hold the real estate by title in fee simple; that they have good and lawful authority to sell and convey the real estate; that the real estate is free and clear of all liens and encumbrances except as may be above stated; and granters covenant to warrant and defend the real estate against the lawful claims of all persons whomsoever. Each of the undersigned hereby relinquishes all rights of dower, homestead and distributive share, if any, in and to the interests conveyed by this Easement.

Words and phrases herein, including acknowledgment hereof, shall be construed as in the singular or plural number, and as masculine or feminine gender, according to the context.

**IN WITNESS WHEREOF**, we have hereunto affixed our hands this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Diana Broderson, Mayor

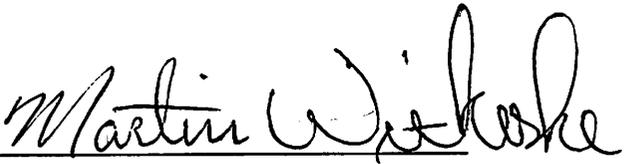
ATTEST:

\_\_\_\_\_  
Gregg Mandsager, City Clerk

STATE OF IOWA, COUNTY OF MUSCATINE, ss:

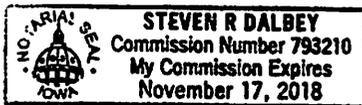
On the \_\_\_\_ day of \_\_\_\_\_, 2018, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared **DIANA BRODERSON** and **GREGG MANDSAGER**, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Clerk of the City of Muscatine, Iowa, a municipal corporation; that said instrument was signed and contained in the Resolution adopted by the City Council of Muscatine, Iowa, on the \_\_ day of \_\_\_\_\_, 2018, and the said **DIANA BRODERSON** and **GREGG MANDSAGER** acknowledged the execution of said instrument to be their voluntary act and deed and the voluntary act and deed of said municipal corporation, by it and by them voluntarily executed.

\_\_\_\_\_  
Notary Public in and for the State of Iowa

  
\_\_\_\_\_  
MARTIN WITKOSKE, Grantor

STATE OF IOWA, COUNTY of MUSCATINE, ss:

On this 30<sup>th</sup> day of April, 2018, before me the undersigned, a Notary Public in and for the State of Iowa, personally appeared Martin Witkoske proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, who, being by me duly sworn, did say that he is trustee of **The Revocable Trust Agreement of Martin Witkoske**, in his authorized capacity, and that by his signature on the instrument the person, upon behalf of which the person acted, executed the instrument.

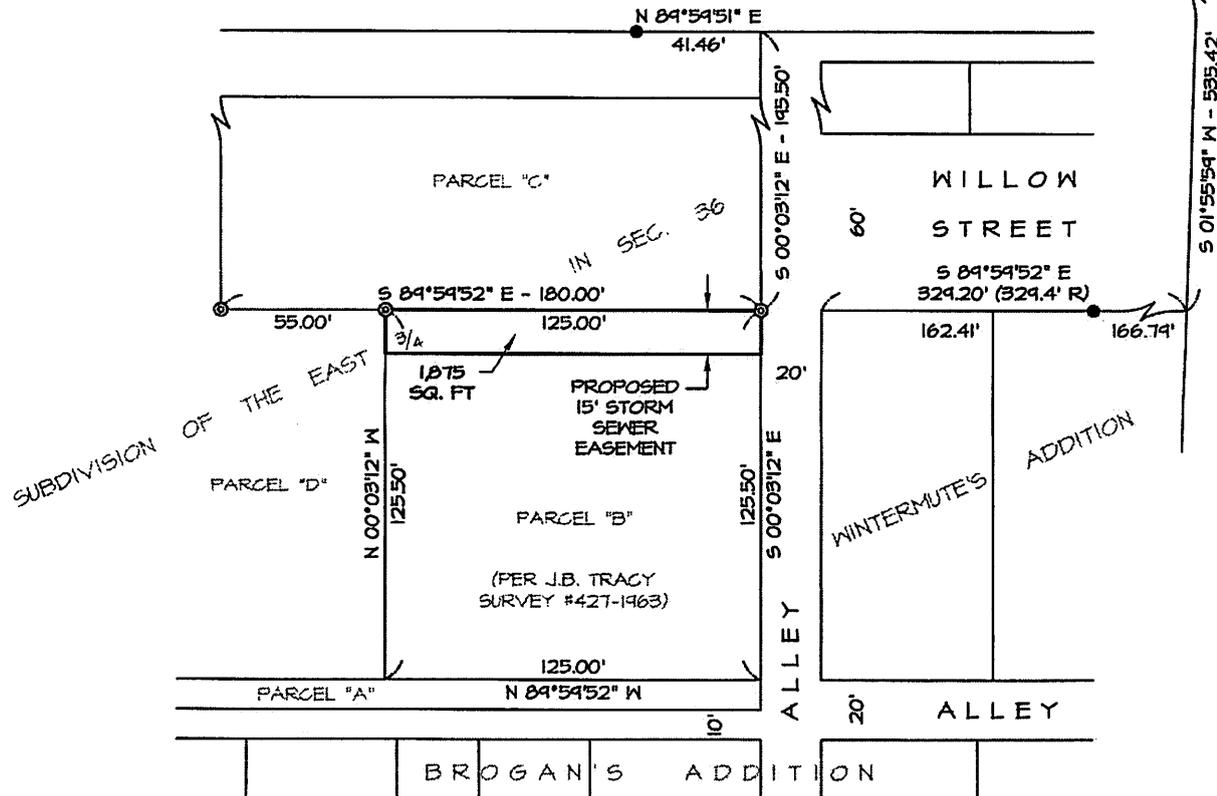


  
\_\_\_\_\_  
Notary Public in and for the State of Iowa



**BASIS OF BEARINGS**  
IOWA STATE PLANE  
COORDINATE SYSTEM  
SOUTH ZONE

NORTHEAST CORNER  
OF BROKER ADDITION



**LEGEND**

- FOUND 3/8" REBAR
- ⊙ SET NAIL WITH LATH
- FOUND CITY MONUMENT
- (R) R DENOTES RECORD DATA IF OTHER THAN ACTUAL FIELD MEASUREMENT

I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly licensed Professional Land Surveyor under the laws of the State of Iowa.

*Gary W. Whitacre*  
Gary W. Whitacre

Date Jan 22, 2018 Reg. No. 10316  
My license renewal date is December 31, 2019



Pages or sheets covered by this seal: 1

**EASEMENT DESCRIPTION -**

THE NORTH 15 FOOT OF PARCEL "B" AS DESCRIBED IN DEED RECORDED AT DOCUMENT # 2068-01725, OFFICE OF RECORDER, MUSCATINE COUNTY, IOWA.

SURVEY COMPANY / RETURN TO: <b>Martin &amp; Whitacre</b> <b>Surveyors &amp; Engineers, Inc.</b> P.O. BOX 413 MUSCATINE, IOWA 52761 INFO@MARTIN-WHITACRE.COM (563)263-7691						
SURVEYOR: GARY W. WHITACRE						
PROPRIETOR(S): MARTIN WITKOSKE, AS TRUSTEE						
REQUESTOR: CITY OF MUSCATINE						
LOCATION: PARCEL "B" IN THE SUBDIVISION OF THE EAST 3/4 OF SEC. 36, T71N, R21W, IN THE CITY OF MUSCATINE, MUSCATINE COUNTY, IOWA						
SURVEY TYPE: STORM SEWER EASEMENT						
FILE	BOOK	SCALE	DRN	CHK'D	DATE	JOB NO.
SUBD.	CITY #46	1"=40'	JRM	GWM	01/22/18	8214J7
REV.	0				8214 SURVEY.DWG	SHEET 1 OF 1