

Prepared by April Limburg, 215 Sycamore St, Muscatine, IA, 52761 (563) 262-4141

**RESOLUTION NO. 2021-0039**

**A RESOLUTION APPROVING A UTILITY EASEMENT FOR THE VACATED  
ALLEY RIGHT OF WAY IN BLOCK 7 OF GEORGE SMALLEY'S ADDITION**

**WHEREAS**, the City of Muscatine has vacated and desires to sell the property located at in an unimproved alley right of way adjoining 1103 Musser St and

**WHEREAS**, public utilities exist within said vacated right of way

**WHEREAS**, 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 adjoining 1103 Musser St 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 4th day of February, 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 UTILITY 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 utility 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**

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Diana L. Broderson, Mayor

Attest:

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Carol Webb, City Clerk

STATE OF IOWA                    )  
                                      ) SS  
COUNTY OF MUSCATINE            )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, 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. \_\_\_\_\_ approved on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ 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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NOTARY PUBLIC

Exhibit A

ALL OF THE 20' ALLEYWAY LYING NORTHWESTERLY AND ADJACENT TO LOTS 1, 2, 3, 4, 5, 6 & 7 AND SOUTHEASTERLY AND ADJACENT TO LOTS 8, 9, 10, 11, 12, 13 & 14 IN BLOCK 7 OF GEORGE SMALLEY'S ADDTION TO SOUTH MUSCATINE, IN THE CITY OF MUSCATINE, MUSCATINE COUNTY IOWA. SAID PARCEL CONTAINS A PUBLIC UTILITY EASEMENT AND INCLUDES PARCEL "EE" AS SHOWN ON A SURVEY RECORDED AS DOCUMENT 2012-02246 IN THE OFFICE OF THE MUSCATINE COUNTY RECORDER.

Exhibit A

Prepared by: April Limburg, 215 Sycamore Street, Muscatine, IA 52761; 563.262.4141  
Return and Tax Statement to: Millwork Properties, 1103 Musser St, Muscatine IA 52761-0071

**WARRANTY DEED**

The City of Muscatine, Iowa, a municipal corporation situated in Muscatine County, Iowa, for valuable consideration, transfers and conveys Millwork Properties all its right, title, and interest in the following real property in Muscatine County, Iowa:

**ALL OF THE 20' ALLEYWAY LYING NORTHWESTERLY AND ADJACENT TO LOTS 1, 2, 3, 4, 5, 6 & 7 AND SOUTHEASTERLY AND ADJACENT TO LOTS 8, 9, 10, 11, 12, 13 & 14 IN BLOCK 7 OF GEORGE SMALLEY'S ADDITION TO SOUTH MUSCATINE, IN THE CITY OF MUSCATINE, MUSCATINE COUNTY IOWA. SAID PARCEL CONTAINS A PUBLIC UTILITY EASEMENT AND INCLUDES PARCEL "EE" AS SHOWN ON A SURVEY RECORDED AS DOCUMENT 2012-02246 IN THE OFFICE OF THE MUSCATINE COUNTY RECORDER.**

*Exempt from transfer tax per Iowa Code Section 428A.2(21).*

The City covenants with the grantee, its successors and assigns, to warrant and defend the real property against the lawful claims of all persons claiming by, though, or under the City.

IN WITNESS WHEREOF, the City of Muscatine, Iowa, has caused this instrument to be executed in its corporate name by its Mayor and City Administrator and its seal to be affixed on February 4, 2021.

CITY OF MUSCATINE, IOWA

(CITY SEAL)

By \_\_\_\_\_  
Diana L. Broderson  
Mayor

ATTEST:

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Carol Webb  
City Clerk

STATE OF IOWA, MUSCATINE COUNTY, ss.

This instrument was acknowledged before me on \_\_\_\_\_, 2021, by Diana L. Broderson and Carol Webb as Mayor and City Clerk, respectively, of the City of Muscatine, Iowa.

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Cinda Hilger, Notary Public in and for the State of Iowa