

Prepared by Andrew Fangman, 215 Sycamore St, Muscatine, IA, 52761 (563) 262-4141

RESOLUTION NO. _____

RESOLUTION TO ACCEPT A DRAINAGE EASEMENT

WHEREAS, Beaver Development, L.L.C. acting as the agent for VMI - North Port Commons L.L.C., has requested to vacate a drainage easement at Lot 8 of the North Port Commons Subdivision; and

WHEREAS, the City of Muscatine and VMI - North Port Commons L.L.C have reached an agreement to vacate this drainage that includes among its provisions the dedication of an alternate drainage easement;

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MUSCATINE, IOWA that the attached drainage easement, attached hereto as Exhibit A. from VMI - North Port Commons L.L.C, be accepted by the City of Muscatine.

PASSED, APPROVED AND ADOPTED this 17th day of August 2017.

BY THE CITY COUNCIL OF THE CITY OF MUSCATINE, IOWA

Attest:

Diana L. Broderson, Mayor

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 WATER DRAINAGE

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, VMI - North Port Commons L.L.C, an Iowa limited liability company (hereinafter called Granters), do 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 permitting the free and unobstructed flow of surface water over the Easement Area.

THE EASEMENT GRANTED FOR STORM WATER DRAINAGE IS TO LAND DESCRIBED AS FOLLOWS:

Part of Lots 7, 8, & 9, as platted on North Port Commons, being an addition to the City of Muscatine, Iowa, situated in part of the NW Fractional 1/4 of Section 19, Township 77 N., Range 1 W. of the 5th P.M., more particularly described as follows;

Beginning at the Southwest corner of said Lot 8, thence, along the northerly right of way line of North Port Drive, South 53 degrees 31 minutes 28 seconds West, a distance of 7.94 feet; thence, North 36 degrees 28 minutes 32 seconds West, a distance of 15.00 feet; thence, along a line 15.00 feet northerly of and parallel to said right of way line, North 53 degrees 31 minutes 28 seconds East, to a common of said Lot 7 and Outlot A of said addition, a distance of 603.69 feet; thence, along said line South 36 degrees 30 minutes 55 seconds East, a distance of 15.00 feet; thence, along the extension of said right of way line and said right of way line, South 53 degrees 31 minutes 28 seconds West, a distance of 595.76 feet, to the point of beginning, said easement contains 9,055 square feet more or less.

For the purposes of this description the northerly right of way line of North Port Drive, is assumed to have a bearing of South 53 degrees 31 minutes 28 seconds West.

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. **ERCTION OF STRUCTURES PROHIBITED.** Granter 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 Granters agree 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.** Granter 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.** Granter 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. **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.

6. **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
_____, 2017.

Diana Broderson, Mayor

ATTEST:

Gregg Mandsager, City Clerk

STATE OF IOWA, COUNTY OF MUSCATINE, ss:

On the ___ day of _____, 2017, 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 _____, 2017, 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

VMI - North Port Commons L.L.C

By: _____

Name: _____

Title: _____

STATE OF _____, COUNTY, ss:

On this ___ day of _____, 2017, before me the undersigned, a Notary Public in and for the State of _____, personally appeared _____ to me personally known, who, being by me duly sworn, did say that he/she is _____ of **VMI - North Port Commons L.L.C.**, that the seal affixed to the foregoing instrument to which this is attached is the corporate seal; that the instrument was signed and sealed on behalf of **VMI - North Port Commons L.L.C.**, by authority of its Board of Directors, and that _____, as such officer, acknowledged the execution of the instrument to be the voluntary act and deed of **VMI - North Port Commons L.L.C** by it and by him/her voluntarily executed.

Notary Public in and for the State of Iowa