



# City of Muscatine



## AGENDA ITEM SUMMARY

DATE:10-15-20

City Council

### STAFF

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Andrew Fangman, Assistant Community Development Director

### SUBJECT:

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A Resolution Authorizing Establishing an Easement for the West Branch Trunk Sewer at 304 Iowa Avenue.

### EXECUTIVE SUMMARY:

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This resolution would establish an easement for the West Branch Trunk Sewer at 304 Iowa Avenue, the former location of the Musser Public Library.

### STAFF RECOMMENDATION

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Staff recommends approval.

### BACKGROUND/DISCUSSION

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The West Branch Trunk Sewer runs beneath the former Musser Public Library building at 304 Iowa Avenue. The City is selling this property to the Stanley Center for Peace and Security. Before this transaction is completed a permanent easement for the West Branch Trunk Sewer needs to be created.

### CITY FINANCIAL IMPACT

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None

### ATTACHMENTS

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1. Memo
2. Resolution
3. Easement Document



# COMMUNITY DEVELOPMENT DEPARTMENT

City Hall - 215 Sycamore St  
Muscatine, IA 52761-3840  
(563) 262-4141  
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Planning • Zoning • Building Safety • Construction Inspection Services • Public Health • Housing Inspections • Code Enforcement

## MEMORANDUM

**To:** Mayor and City Council Members

**From:** Andrew Fangman, Assistant Community Development Director

**Cc:** Carol Webb, City Administrator  
Jodi Royal-Goodwin, Community Development Director

**Date:** October 15, 2020

**Re:** A Resolution Authorizing Establishing an Easement for the West Branch Trunk Sewer at 304 Iowa Avenue.

**INTRODUCTION:** The West Branch Trunk Sewer runs beneath the former Musser Public Library building at 304 Iowa Avenue. The City is selling this property to the Stanley Center for Peace and Security. Before this transaction is completed a permanent easement for the West Branch Trunk Sewer needs to be created.

### BACKGROUND:

In June of 2018, the new Musser Public Library and HNI Community opened at 408 E. 2nd Street, relocating from its former location at 304 Iowa Avenue. This ended 117 continuous years of the City of Muscatine operating a library at the northwest corner Iowa Avenue and Third Street. On September 10<sup>th</sup> City Council approved a purchase agreement for this property. This purchase agreement sets a closing date of October 22, 2020.

The West Branch Truck Sewer is a combined sewer that was constructed by the City in 1895. The structure at 304 Iowa Avenue was constructed over the top of this sewer line in 1960's and 1970's. Construction of the building in manner that does not interfere with the sewer line was accomplished by using 60+ caissons, which support the building. These caissons extend down to the bedrock and are arrange so that the West Branch Trunk Sewer passes between them. The sewer line runs between these caissons. There is no access to the West Branch Trunk Sewer from the former library property, access to this portion of the sewer line is through manholes located in the streets to the northwest and southeast of the former library.

There is no current existing easement for this sewer line as the City acquired this parcel of land in 1876 and as such no easement was needed to construct either the sewer line or the building located above it. To ensure the legal right for this sewer line to remain after City ownership of the former library ceases, a permanent easement needs to be established. This easment will be binding on all future owners of this property.

### RECOMMENDATION:

Staff recommends approval of attached resolution which will establish a permanent easement for the West Branch Truck Sewer at 304 Iowa Avenue.

### BACKUP INFORMATION:

1. Resolution
2. Easement Document

**RESOLUTION NO. 2020-0342**

**A RESOLUTION APPROVING AN EASEMENT FOR THE WEST BRANCH TRUNK SEWER**

**WHEREAS**, the City of Muscatine desires to sell property located at 304 Iowa Avenue that was the former location of the Musser Public Library; and

**WHEREAS**, the West Branch Trunk Sewer passes through this property; and

**WHEREAS**, the City of Muscatine desires to continue to use and maintain the West Branch Truck Sewer; and

**WHEREAS**, an easement for the purpose of accessing the Easement Area to reconstruct, maintain, operate, replace, repair, patrol or remove, whenever necessary, the City's West Branch Truck Sewer and all appurtenant sewer facilities located at 304 Iowa Avenue 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 15<sup>th</sup> day of October, 2020.**

**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: Matt Brick, Brick Gentry, P.C., 6701 Westown Pkwy., Suite 100, West Des Moines, IA 50266 (515) 274-1450  
Return to: Andrew Fangman, Assistant Community Development Director, City of Muscatine, IA, 215 Sycamore St.,  
Muscatine, IA 52761 (563) 262-4141

### **WEST BRANCH TRUNK SEWER EASEMENT**

The **CITY OF MUSCATINE, IOWA**, an Iowa municipal corporation, hereby reserves onto itself, its successors and assigns (the “City”) a permanent Sewer Easement (hereinafter the “Easement”) under, through and across real property as shown on the attached Exhibit A and legally described on the attached Exhibit B, located in the City of Muscatine, Iowa in the county of Muscatine, Iowa, hereinafter the “Easement Area.”

1. **Purpose of Easement.** This Easement shall be for the purpose of accessing the Easement Area to reconstruct, maintain, operate, replace, repair, patrol or remove, whenever necessary, the City’s West Branch Truck Sewer and all appurtenant sewer facilities located in the Easement Area. The City maintains the right to use the Easement Area for the future placement of 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 underground sewer and appurtenant storm sewer facilities, consistent with the easement provided herein. Buildings or structures over the Easement Area may be redeveloped so long as redevelopment of these buildings and other structures do not damage or interfere with the underground sewer, do not block the flow of water in the underground sewer, do not change the drainage grade of the water in the underground storm sewer, and allow for continued access to the underground sewer by means of manholes or other access points in adjoining public right of way. 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 underground sewer and appurtenant sewer facilities shall at all times remain the property of the City.
3. **Maintenance of Easement; Restoration of Easement Area.** The City shall keep the underground sewer and appurtenant sewer 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 underground sewer and any appurtenant sewer facilities in the Easement Area, the City shall restore the Easement Area in good and workmanlike manner to a condition comparable to its condition as it was prior to such activity including the building structure, building systems, materials and finishes. The City shall pay a business disruption fee equal to the documented expenses, which expenses shall include employee and office relocation expenses, incurred if such activity or





Exhibit B

LOTS 4 AND 5 OF BLOCK 55 OF ORIGINAL TOWN, CITY OF MUSCATINE, MUSCATINE  
COUNTY, IOWA, PARCEL ID# 0835460011

Exhibit A



