Return to: City Clerk, 209 Pearl Street, Council Bluffs, IA 51503 – Phone: (712) 890-5261
Prepared by: Community Development Dept., Council Bluffs, IA 51503 – Phone: (712) 890-5350

RESOLUTION NO. 22-22

A RESOLUTION TO VACATE AND DISPOSE OF 12TH AVENUE RIGHT-OF-WAY BETWEEN SOUTH 34TH AND SOUTH 35TH STREETS AND ABUTTING PROPERTY LEGALLY DESCRIBED AS LOTS 16 THROUGH 30, BLOCK 19, BROWN'S SUBDIVISION AND LOTS 1 THROUGH 15, BLOCK 18, BROWN'S SUBDIVISION, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

WHEREAS, following public hearing and having given careful study to the proposal, the City Council determines that city-owned right-of-way described as follows: 12th Avenue right-of-way lying between South 34th and South 35th Streets and abutting property legally described as Lots 16 through 30, Block 19, Brown's Subdivision and Lots 1 through 15, Block 18, Brown's Subdivision, City of Council Bluffs, Pottawattamie County, Iowa, is of no benefit to the public and should be vacated; and

WHEREAS, a public meeting was held on this matter on the 24th day of January, 2022; and

WHEREAS, pursuant to Iowa Code Section 354.23, the City Council declares its intent to dispose of this City right-of-way by conveying and quitclaiming all of its right, title, and interest in it to the abutting property owner(s); and

WHEREAS, this conveyance is subject to the reservation of a permanent and perpetual utilities easement of way in favor of the City of Council Bluffs, for the maintenance of any and all utilities equipment presently in place, and for such reconstruction, re-emplacement and repair thereof which said City and its licensees and/or franchise grantees may in the future deem necessary and proper, and for the removal of any improvements emplaced thereon by the grantees, or their successors or assigns, necessitated by the reconstruction, re-emplacement, or repair of such utilities, such removal to be at the sole expense of grantees or their successors or assigns and without cost to the City, its licensees and/or franchise grantees, and without obligation to repair or replace such improvements, and subject to any and all other easements and right-of-way of record and those not of record.

**NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

That the above-described city right-of-way is hereby vacated and conveyed as follows:

Amy Vance Properties, LLC and all successors in interest: The North ½ of vacated 12th Avenue right-of-way abutting Lots 16 through 22, Block 19, Browns Subdivision for the sum of $3,362.00; and

Shadow Park Cooperative and all successors in interest: The South ½ of vacated 12th Avenue right-of-way abutting Lots 1 through 5, Block 18, Browns Subdivision for the sum of $1,910.00; and

Steven B. and Kathy J. Tisher and all successors in interest: The South ½ of vacated 12th Avenue right-of-way abutting Lots 6 through 5, Block 18, Browns Subdivision for the sum of $5,540.00; and

Doug Reisz and all successors in interest: The North ½ of vacated 12th Avenue right-of-way abutting Lots 23-30, Block 19, Browns Subdivision for the sum of $4,088.00; and

BE IT FURTHER RESOLVED

The conveyance of said 12th Avenue right-of-way shall not occur until such time that the abutting property owners, Amy Vance Properties, LLC, Shadow Park Cooperative, Steven B. and Kathy J. Tisher, and Doug Resisz, or their successors in interest, execute a final plat(s) to replat said vacated right-of-way along with their existing lots of record adjacent into one or more parcels of land in order to prevent any of their lots from becoming landlocked as a result of the vacation; and

BE IT FURTHER RESOLVED

That the Mayor and the City Clerk be and are hereby authorized, empowered and directed to execute a City deed conveying the City's interest in the above-described street right-of-way upon execution of above described final plat(s), and;

BE IT FURTHER RESOLVED

That the City Clerk is directed to deliver this resolution and attached documents to the County Recorder according to Iowa Code Section 354.23.

ADOPTED
AND
APPROVED: January 24, 2022.

_____
Matthew J. Walsh, Mayor

ATTEST: _____
Jodi Quakenbush, City Clerk

STATE OF IOWA)
COUNTY OF)ss
POTTAWATTAMIE)

On this _____ day of _____, _____, before me the undersigned, a Notary Public in and for said County and said State, personally appeared Matthew J. Walsh and Jodi Quakenbush, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Clerk respectively, of the said City of Council Bluffs, Iowa, a Municipal Corporation, that the seal affixed hereto is the seal of said Municipal Corporation; that said instrument was signed and sealed on behalf of the said City of Council Bluffs, Iowa, by authority of its City Council; and that said Matthew J. Walsh and said Jodi Quakenbush, as such officers, acknowledged the execution of said instrument to be the voluntary act and deed of said City, by it and by them voluntarily executed.

_____
Notary Public in and for said State