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. 23-164

A RESOLUTION TO VACATE AND DISPOSE OF THE EAST/WEST ALLEY ABUTTING LOTS 1 THROUGH 11, BLOCK 5, AND VACATED NORTH 32ND STREET ADJACENT TO LOT 1, BLOCK 5, AND LOT 12, BLOCK 4, BENSON'S 1ST ADDITION, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA

WHEREAS, the City-owned alley right-of-way described as follows: the 6' x 561' east/west alley abutting Lots 1 through 11, Block 5, and vacated North 32nd Street adjacent to Lot 1, Block 5, and Lot 12, Block 4, Benson's 1st Addition is of no benefit to the public and should be vacated and disposed of; and

WHEREAS, a public meeting was held on this matter on the 12th day of June, 2023; 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 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; and

WHEREAS, an access easement shall be retained over the westerly 50-feet and the easterly 66-feet of the vacated alley right-of-way; and

WHEREAS, all portions of the subject right-of-way shall be disposed of to an abutting property owner(s). The applicant shall be allowed to acquire all portions of the subject east/west alley where the City has not received signed petitions from the adjacent property owner(s) or where the owners have declined to acquire their portion thereof; and

WHEREAS, a final plat shall be executed to combine all landholdings owned by the applicant with the acquired portions of the subject alley to create one lot 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:

Huff and Huff-Sales Family Trust: The vacated east/west alley abutting Lots 1 through 11, Block 5, and vacated North 32nd Street adjacent to Lot 1, Block 5, and Lot 12, Block 4, Benson's 1st Addition, except for the South ½ of the adjacent alley abutting Lots 3, 6, 11, and 12, Block 5, Benson's 1st Addition;

Tracy L. Busse: The South ½ of the vacated east/west alley abutting Lot 6, Block 5, Benson's 1st Addition;

Linda L. Gwennap: The South ½ of the vacated east/west alley abutting Lots 11 and 12, Block 5, Benson's 1st Addition;

Georgina E. Olivieri Schulte: The South ½ of the vacated east/west alley abutting Lot 3, Block 5, Benson's 1st Addition;

BE IT FURTHER RESOLVED

That the Mayor and the City Clerk be and are hereby authorized, empowered and directed to execute this resolution conveying the City's interest in the above-described alley right-of-way in consideration of the vacation application fee already paid 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 354.23.

ADOPTED
AND
APPROVED: June 12, 2023

_____
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

Planning Case #SAV-16-001