RESOLUTION NO. 18-337

A RESOLUTION TO VACATE THE CITY'S INTEREST IN MURPHY ROAD RIGHT-OF-WAY, LYING WEST OF INDIAN CREEK AND EAST OF SOUTH 19TH STREET RIGHT-OF-WAY, AND ABUTTING PROPERTIES LEGALLY DESCRIBED AS BEING PART OF THE SE1/4 NW1/4 OF SECTION 14.74-44, LYING WEST OF INDIAN CREEK AND NORTH OF MURPHY ROAD RIGHT-OF-WAY, ALONG WITH GOVERNMENT LOT 2 IN THE NE1/4 SW1/4 OF SECTION 14-74-44, LYING EAST OF GIFFORD ROAD AND WEST OF INDIAN CREEK, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

WHEREAS, following public hearing and having given careful study to the proposal, the City Council determines that the City's interest in the Murphy Road right-of-way, lying west of Indian Creek and East of South 19th Street right-of-way, and abutting properties legally described as being part of the SE1/4 NW1/4 of Section 14.74-44, lying West of Indian Creek and north of Murphy Road right-of-way, along with Government Lot 2 in the NE1/4 SW1/4 of Section 14-74-44, lying east of Gifford Road and West of Indian Creek, City of Council Bluffs, Pottawattamie County, Iowa and being more particularly described in Attachment 'C' of the case staff report, is of no benefit to the public and should be vacated; and

WHEREAS, a public meeting was held on this matter on the 17th day of December, 2018; 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, said Murphy Road right-of-way was established as an easement, and not as a dedicated right-of-way, under Pottawattamie County jurisdiction prior to being annexed into the City of Council Bluffs and said land area for Murphy Road right-of-way reverts back to the underlying property owner once the easement is vacated, by operation of law and without compensation; 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:

Council Bluffs Industrial Foundation and all successors in interest: Murphy Road right-of-way, lying west of Indian Creek and East of South 19th Street right-of-way, and abutting properties legally described as being part of the SE1/4 NW1/4 of Section 14.74-44, lying West of Indian Creek and north of Murphy Road right-of-way, along with Government Lot 2 in the NE1/4 SW1/4 of Section 14-74-44, lying east of Gifford Road and West of Indian Creek, City of Council Bluffs, Pottawattamie County, Iowa, and being more particularly described in Attachment 'C' of the case staff report for no cost.

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: December 17, 2018

_____
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