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

**RESOLUTION NO. 20-224**

**A RESOLUTION TO VACATE AND DISPOSE OF 42ND AVENUE RIGHT-OF-WAY LYING BETWEEN INDIAN CREEK AND SOUTH 13TH STREET, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.**

**WHEREAS,** The city-owned right-of-way described as follows: 42nd Avenue right-of-way lying between Indian Creek and South 13th Street, City of Council Bluffs, Pottawattamie County; and

**WHEREAS,** a public meeting was held on this matter on the 14th day of September, 2020; 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 conveyed as follows:

North Shore Manawa Holdings LLC and all successors in interest: The South ½ of vacated 42nd Avenue right-of-way lying between Indian Creek and South 13th Street, abutting property legally described as that part of the NE ¼ NE ¼ of Section 14-74-44 lying south of 42nd Avenue and north of the State Park except the East 244.5 feet along with the northerly 1055.66 feet of the NW ¼ NE ¼ lying east of Indian Creek, for the total sum of $20,124.62.

SML Management LLC and all successors in interest: The North ½ of vacated 42nd Avenue right-of-way lying between Indian Creek and South 13th Street, abutting legally described as part of the SE ¼ SE ¼ of Section 11-74-44 lying south of Highway 275 and north of 42nd Avenue being the west 400.75 feet of the east 952.38 feet, except the road for the total sum of $3,417.88.

G.A.C.H. LLC and all successors in interest: The North ½ of vacated 42nd Avenue right-of-way lying between Indian Creek and South 13th Street, abutting legally described as the west 200 feet of the east 1152.38 feet of the SE ¼ SE ¼ of Section 11-74-44 lying south of Highway 275 and north of 42nd Avenue, for the total sum of $1,475.00.

James L. Moss Jr. and all successors in interest: The North ½ of vacated 42nd Avenue right-of-way lying between Indian Creek and South 13th Street, abutting legally described as being part of the SW ¼ SE ¼ of Section 11-74-44 lying south of Highway 275, north of 42nd Avenue and east of Indian Creek along with that part of the SE ¼ SE ¼ of Section 11-74-44 lying south of Highway 275 and North of 42nd Avenue except the east 1152.38 feet, for the total sum of $12,371.66.

**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 right-of-way; 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: September 14, 2020.

_____
Matthew J. Walsh, Mayor

ATTEST: _____
Jodi Quakenbush, City Clerk

STATE OF IOWA )
COUNTY OF )ss
POTTAWATTAMIE)

On this _____ day of _____, 2020, 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