RESOLUTION NO. 21-293

A RESOLUTION TO VACATE THE CITY'S INTEREST IN 45TH AVENUE RIGHT-OF-WAY, LYING WEST OF GIFFORD ROAD AND SOUTH OF VETERANS MEMORIAL HIGHWAY (U.S. HIGHWAY 275) AND BEING LEGALLY DESCRIBED AS A PORTION OF PARCELS 21219 AND 21220 OF THE SE1/4 NE1/4 AND A PORTION OF THE NE1/4 SE1/4, ALL IN SECTION 15-74-44, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA, AND BEING MORE PARTICULARLY DESCRIBED IN ATTACHMENT 'B' OF THE CASE REPORT

WHEREAS, following public hearing and having given careful study to the proposal, the City Council determines that the City's interest in the 45th Avenue right-of-way, lying west of Gifford Road and south Veterans Memorial Highway (U.S. Highway 275) and being legally described as a portion of parcels 21219 and 21220 of the SE1/4 NE1/4 and a portion of the NE1/4 SE1/4, all in Section 15-74-44, City of Council Bluffs, Pottawattamie County, Iowa and being more particularly described in Attachment 'B' of the case report, is of no benefit to the public and should be vacated; and

WHEREAS, a public meeting was held on this matter on the 11th day of October, 2021; 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 45th Avenue 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 45th Avenue right-of-way reverts back to the underlying property owners 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 by City deed, as follows:

Eyman Investments, LLC and all successors in interest: The easterly ½ of 45th Avenue right-of-way abutting property legally described as being part of the SE1/4 NE1/4 of Section 15-74-44 lying East of 26th Street, West of South 24th Street, and South of 45th Avenue, except the Southerly 435.6 feet of the

Easterly 1000 feet of said Section, all in the City of Council Bluffs, Pottawattamie County, Iowa for no additional cost or consideration; and

Robert D. Adkins Jr. and all successor and interest: The westerly ½ of 45th Avenue right-of-way abutting property legally described as Parcel "21219" being a portion of the West ½ of the NE1/4 and a portion of the SE1/4 NE1/4, all in Section 15-74-44, City of Council Bluffs, Pottawattamie County, Iowa for no additional cost or consideration; and

Kenneth L. Adkins and all successor and interest: The southwesterly portion of 45th Avenue right-of-way abutting property legally described as being part of the East ½ of the SE1/4 of Section 15-74-44, City of Council Bluffs, Pottawattamie County, Iowa for no additional cost or consideration; and

Walter D. Jr. and Cynthia S. Bussey and all successor and interest: The southeasterly portion of 45th Avenue right-of-way abutting property legally described as being part of the East ½ of the NE1/4 SE1/4 of Section 15-74-44, City of Council Bluffs, Pottawattamie County, Iowa for no additional cost or consideration.

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: October 11, 2021

_____
Matthew J. Walsh, Mayor

ATTEST: _____
Allison Head, Administrative Secretary

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 Allison Head, 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