



**OFFICE OF THE CITY CLERK
COUNCIL ACTION FORM**

SUBJECT: Vacating 12th Ave. North and North Side Addition

Council Meeting Date: 8/22/22

Vote: APPROVED 10-0, BOYETT ABSENT

**Shaw, Gulick, Neese, Owen, Joy, Choriki, Tidswell,
Purinton, Boyett, Rupsis, Mayor Cole**

RESOLUTION 22-11059

A RESOLUTION CONDITIONALLY APPROVING THE DISCONTINUATION AND VACATION OF A PORTION OF 12TH AVENUE NORTH AND NORTH SIDE ADDITION 3RD FILING, BLOCK 9 ALLEY

WHEREAS, §7-14-4114, MCA, generally authorizes that a city council may discontinue a street or alley or any part of a street or alley in a city if it can be done without detriment to the public interest by 1) closure to through traffic, which action does not revoke a city's legal right-of-way interest in the street or alley or part thereof; or 2) by vacating a street or alley or any part thereof which action revokes a city's legal right-of-way interest in the street or alley or part thereof;

WHEREAS, §7-14-4115, MCA, provides that vacation authorized in §7-14-4114, MCA, shall not affect the right of any public utility to continue to maintain its plant or equipment in any such streets or alleys; and

WHEREAS, The Sisters of Charity of Leavenworth Health System, Inc. (SCL Health – Montana) filed a proper petition with the City Council of the City of Billings, Montana, pursuant to §22-601 BMCC, requesting discontinuance and vacation of a portion of 12th Avenue North and North Side Addition 3rd Filing, Block 9 Alley as described hereinafter; upon a future date, yet to be determined, to build a replacement hospital; and

WHEREAS, discontinuation and vacation of this portion of public right-of-way is not in the public's best interests unless the City has both approved a building permit for the proposed replacement hospital and has received payment in full for the total cost value of this portion of public right-of-way within five (5) years from the date of approval and adoption of this Resolution; and

WHEREAS, a public hearing was properly noticed and held as required by law.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA, AS FOLLOWS:

1. DISCONTINUANCE AND VACATION. Pursuant to §§7-14-4114 and 7-14-4115, MCA, a portion of 12th Avenue North and North Side Addition 3rd Filing, Block 9 Alley, described as follows and shown on and incorporated herein as attached exhibit "A" and exhibit "B", are discontinued and vacated on a future, ascertainable date no later than five (5) years following the date of approval and adoption of this Resolution, and upon the date which the last of the two following conditions precedent must have been performed: 1) the City approved a building permit for SCL Health – Montana's proposed replacement hospital over this portion of public right-of-way; and 2) the City received full payment from SCL Health – Montana in the amount of \$1,048,296.00 for the total cost value of this portion of public right-of-way:

12th Avenue North from the westerly Right-of-Way (R-O-W) line of North 27th Street to easterly R-O-W line of North 28th Street recorded May 7, 1935 under document number 300610, on file and of record in the office of the Yellowstone County Clerk & Recorder, less any and all R-O-W previously deed for road purposes along North 27th Street. Said portion of 12th Avenue North containing 23,225 square feet more or less.

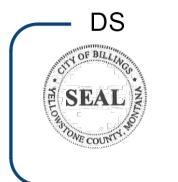
Alley within North Side Addition 3rd Filing, Block 9, recorded May 7, 1935 under document number 300610, on file and of record in the office of the Yellowstone County Clerk & Recorder. Said portion of the Block 9 alley containing 12,000 square feet more or less.

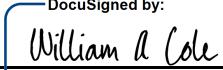
2. **PUBLIC INTEREST.** Upon the conditions precedent being met, the discontinuance and vacation of **a portion of 12th Avenue North and North Side Addition 3rd Filing, Block 9 Alley** is in the best interest of the public and can be done without any public detriment.

3. **NOTICE OF PUBLIC HEARING.** On Monday August 22nd, 2022, at 5:30 p.m., or as soon thereafter as the matter could be considered on the agenda in the Council Chambers of the City Hall, Billings, Montana, the City Council heard objections to the adoption of this resolution. The City Clerk published notice twice, at least five (5) days prior to the hearing, in the Yellowstone County News.

4. **EFFECTIVE DATE.** This resolution shall be effective upon adoption.

ADOPTED AND APPROVED by the City Council of the City of Billings, Montana, on the 22nd day of August, 2022.



CITY OF BILLINGS:
DocuSigned by:
BY: 
William A. Cole, Mayor

ATTEST:

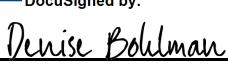
DocuSigned by:
BY: 
Denise R. Bohlman, City Clerk

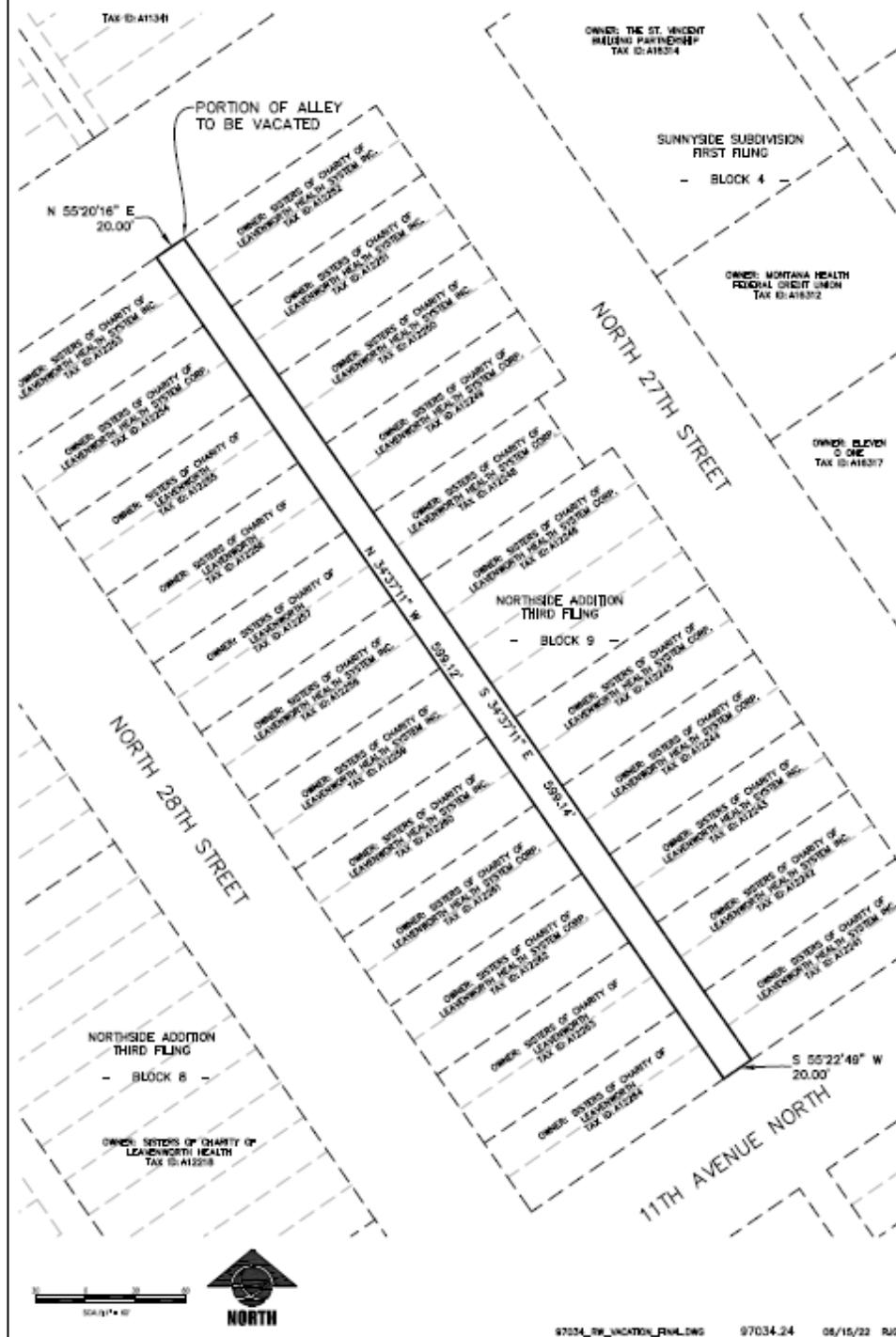
EXHIBIT B

VACATED PORTION OF PUBLIC RIGHT-OF-WAY
FOR THE ALLEY LOCATED IN BLOCK 9
OF THE NORTHSIDE ADDITION THIRD FILING

PREPARED FOR : SISTERS OF CHARITY OF LEAVENWORTH
PREPARED BY : **SANDERSON STEWART**

JUNE, 2022

BILLINGS, MONTANA



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William A Cole



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coleb@billingsmt.gov

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Mayor

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Denise Bohlman



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City Clerk



City of Billings

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Toni Keehner

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Deputy City Clerk

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City Clerk

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Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	8/23/2022 12:23:00 PM
Certified Delivered	Security Checked	8/25/2022 8:21:04 AM
Signing Complete	Security Checked	8/25/2022 8:21:10 AM
Completed	Security Checked	8/25/2022 8:21:10 AM
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