

RESOLUTION NO. 11-19064

A RESOLUTION OF THE CITY OF BILLINGS, MONTANA,  
DISCONTINUING AND VACATING **portions of 9<sup>th</sup> Avenue  
North and North 28<sup>th</sup> Street.**

WHEREAS, a proper petition was filed with the City Council of the City of Billings, Montana, as per Section 22-601 BMCC, requesting discontinuance and vacation of **portions of 9<sup>th</sup> Avenue North and North 28<sup>th</sup> Street** as described hereinafter; and

WHEREAS, It is the intent of the City of Billings, Montana, that the Petitioner Billings Clinic shall acquire sole fee simple ownership of the vacated Street Segments described herein after the Billings Clinic has received and recorded a Quit Claim Deed from Kirby Development Company, Inc., which is Exhibit C to the Exchange Agreement previously approved by the City Council. This Quit Claim Deed conveys to Billings Clinic any right Kirby Development Company may have in the vacated Street Segments described herein and in the Exchange Agreement between the Billings Clinic and the City of Billings; and

WHEREAS, The discontinuance, vacation and abandonment of the herein described **portions of 9<sup>th</sup> Avenue North and North 28<sup>th</sup> Street** is in the best interest of the public and can be done without any public detriment.

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 Sections 7-14-4114 and 7-14-4115, M.C.A., **portions of 9<sup>th</sup> Avenue North and North 28<sup>th</sup> Street** more particularly described as follows:

DESCRIPTION: NINTH AVENUE NORTH VACATION

A tract of land situated in the SE1/4 of Section 32, T. 1 N., R. 26 E., P.M.M., Yellowstone County, Montana; more particularly described as follows, to-wit:

Beginning at a point which is the southwesterly corner of Block 1 of the Billings Deaconess Hospital Addition; thence, from said Point of Beginning along the southerly line of said Block 1, N 55°23'30" E a distance of 300.00 feet, to the southeasterly corner of Block 1 of said Billings Deaconess Hospital Addition, thence, crossing the right-of-way of Ninth Avenue North, S 34°36'30" E a distance of 80.00 feet, to the northeasterly

corner of Block 1 of Billings Clinic Subdivision: thence, along the northerly line of said Block 1, S 55°23'30" W a distance of 300.00 feet to the northwesterly corner of said Block 1, thence, crossing the right-of-way of Ninth Avenue North, N 34°36'30" W a distance of 80.00 feet, to the Point of Beginning; said described tract having an area of 24,000 square feet.

#### DESCRIPTION: NORTH 28TH STREET VACATION

A tract of land situated in the NE1/4 and SE1/4 of Section 32, T. 1 N., R. 26 E., P.M.M., Yellowstone County, Montana; more particularly described as follows, to-wit:

Beginning at a point which is the southwesterly corner of Lot 48, Block 4 of the North Side Addition, Third Filing; thence, from said Point of Beginning, crossing the right-of-way of North 28th Street, S 55°23'30" W a distance of 80.00 feet to the southeasterly corner of Lot 1, Block 5, North Side Addition, Third Filing, thence; along the easterly line of said Block 5, N 34°36'30" W a distance of 350.00 feet to the northeasterly corner of Lot 14, Block 5, North Side Addition, Third Filing, thence; crossing the right-of-way of North 28th Street, N 55°23'30" E a distance of 80.00 feet to the northwesterly corner of Lot 35, Block 4, North Side Addition, Third Filing; thence, along the westerly line of said Block 4, S 34°36'30" E a distance of 350.00 feet to the Point of Beginning; said described tract having an area of 28,000 square feet.

#### DESCRIPTION: NORTH 28TH STREET VACATION

A tract of land situated in the SE1/4 of Section 32, T. 1 N., R. 26 E., P.M.M., Yellowstone County, Montana; more particularly described as follows, to-wit:

Beginning at a point which is the southeasterly corner of Block 1 of Billings Clinic Subdivision, thence, from said Point of Beginning, along the easterly line of said Block 1, N 34°36'30" W a distance of 300.00 feet thence, crossing the right-of-way of North 28th Street, N 55°23'30" E a distance of 80.00 feet to the northwesterly corner of Block 37 of Foster's Addition, thence, along the westerly line of said Block 37, S 34°36'30" E a distance of 300.00 feet to the southwesterly corner of said Block 37; thence, crossing the right-of-way of said North 28th Street, S 55°23'30" W a distance of 80.00 feet to the Point of Beginning; said described tract having an area of 24,000 square feet.

#### DESCRIPTION: NORTH 28TH STREET VACATION

A tract of land situated in the SE1/4 of Section 32, T. 1 N., R. 26 E., P.M.M., Yellowstone County, Montana; more particularly described as follows, to-wit:

Beginning at a point which is the southwesterly corner of Lot 3, Block 1, of the Deaconess Medical Center Subdivision, 1st filing, thence, from said Point of Beginning, along the southerly line of said Block 1, N 55°23'30" E a distance of 80.00 feet to the southwesterly corner of Lot 1, Block 1, Deaconess Medical Center Subdivision 1st filing; thence, S 34°36'30" E a distance of 460.00 feet crossing the right-of-way of Ninth

Avenue North, along the westerly line of Block 25, Foster's Addition and crossing the right-of-way of Eight Avenue North, to the northwesterly corner of Block 37, Foster's Addition; thence, S 55°23'30" W a distance of 80.00 feet crossing the right-of-way of North 28th Street, to a point on the easterly line of Lot 1, Block 1, Billings Clinic Subdivision; thence N 34°36'30" W a distance of 460.00 feet along the easterly line of said Block 1, and crossing the right-of-way of Ninth Avenue North, to the Point of Beginning; said described tract having an area of 36,800 square feet.

are hereby discontinued, abandoned and vacated together with the following Conditions:

1. Ownership in fee simple of the vacated Street Segments shall revert to the Billings Clinic
2. Utility Easements reserved to the City within the vacated Street Segments shall be subject to the right of the Billings Clinic or a subsequent owner of the vacated Street Segments to elect to remove such utilities at its sole expense and the City shall not unreasonably withhold its consent to relocation of City utilities to other City rights-of-way or property.
3. This Resolution shall become effective simultaneously with the actual Closing of the transactions contemplated in the Exchange Agreement between Billings Clinic and the City of Billings.

PASSED by the City Council and APPROVED this 13<sup>th</sup> day of June 2011.

THE CITY OF BILLINGS:



BY: Thomas W. Hanel  
Thomas W. Hanel, MAYOR

ATTEST:

BY: Cari Martin  
Cari Martin, CITY CLERK