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City of Missoula  
435 Ryman Street  
Missoula MT 59802-4297

Resolution Number \_\_\_\_\_

**A resolution declaring it to be the intention of the City Council of the City of Missoula, Montana, to close and vacate public right-of-way being the southerly 33 feet of West Pine Street between May and McCormick Streets adjacent to Lots 11 – 20, Block 41 and Lots 1 – 10, Block 50 of W.J. McCormick's Addition in Section 21, Township 13 North, Range 19 West, P.M.M, as shown in Exhibit A, and set a public hearing on October 28, 2019.**

**Be it resolved by the City Council of the city of Missoula, Montana.**

**SECTION I.** THAT Petition #9984 requested vacation of the southerly 40 feet of the West Pine Street right-of-way, however due to the existing location of CenturyLink high density cables and request by CenturyLink that the cables remain in place and not be relocated, the petitioner revised their request to vacate only the southerly 33 feet of the West Pine Street right-of-way between May and McCormick Streets.

**SECTION II.** THAT it is the intention of the City Council of the City of Missoula, Montana, to close and vacate all that portion of right-of-way described below and shown on attached Exhibit A, subject to the four (4) conditions of approval noted in Section III:

The southerly 33 feet of West Pine Street between May and McCormick Streets adjacent to Lots 11 – 20, Block 41 and Lots 1 – 10, Block 50 of W.J. McCormick's Addition in Section 21, Township 13 North, Range 19 West, P.M.M.

**SECTION III.** THAT the vacated right-of-way will revert to and combine with adjacent private property upon vacation approval and shall attach to the adjacent properties and the titled owners in accordance with Section 70-16-202 of the Montana Code Annotated as follows:

Lots 1 – 10, Block 50 of W.J. McCormick's Addition on file and of record in Missoula County, Montana, located in Section 21, Township 13 North, Range 19 West, P.M.M.

FURTHER, that the vacation is contingent upon the following four (4) conditions of approval for the vacation:

1. The developer shall prepare and file easements in the location of existing utility lines currently located within the portion of the W. Pine Street right-of-way to be vacated, subject to review and approval of the affected utility companies, Missoula Water, and the City Engineer. The easements shall be filed within sixty (60) days of approval of the Resolution to Vacate, or the right-of-way vacation is null and void and will revert back to the City of Missoula.
2. The developer shall prepare plans for and relocate existing utility lines into the remaining W. Pine Street right-of-way, within one hundred and twenty (120) days of approval of the Resolution to Vacate, or the right-of-way vacation is null and void and will revert back to the City of Missoula, subject to review and approval of the affected Utility companies, Missoula Water and the City Engineer. Building permits for structures within the vacated right-of-way shall not be approved until existing utility lines are relocated and the easements are vacated.

3. The developer shall revise the W. Pine Street layout within sixty (60) days of approval of the Resolution to Vacate, or the right-of-way vacation is null and void and will revert back to the City of Missoula, to show the southerly 33 feet of W. Pine Street right-of-way vacated, moving the southerly sidewalk, boulevard, curb, gutter and drive lanes to the south and adding the additional 7 feet of roadway to the north side as a parallel parking lane, subject to review and approval of the City Engineer.
4. The developer shall enter into an agreement with the City of Missoula that stipulates St. Patrick's Hospital Corp. will pay for construction and maintenance of the round-about and if the round-about does not function appropriately at this intersection as determined by the City Engineer, St. Patrick's Hospital Corp. will pay to remove the round-about and restore this intersection to meet typical engineering road standards, subject to review and approval of the City Attorney and the City Engineer. The Agreement will be filed with the County Clerk and Recorder within sixty (60) days of approval of the Resolution to Vacate, or the right-of-way vacation is null and void and will revert back to the City of Missoula.

**SECTION IV.** THAT the City Council will, at its regular meeting to be held on the 28<sup>th</sup> day of October, 2019 at the hour of 7:00 P.M., in the City Council Chambers at 140 West Pine Street, Missoula Montana, hear all matters pertaining to the proposed vacation as set out in Section II above.

THAT the property intended to be vacated is subject to any and all utility easements over and across said property in accordance with Section 7-14-4115 of the Montana Code Annotated to continue the installation, maintenance, and repair of any and all public utilities. The property owners benefiting from the vacated right-of-way assume all risk for the installation, placement or construction of any improvement over any easement in which a municipal utility is located and the City shall in no way be liable for any damage to those improvements occasioned by the repair and maintenance of any utilities.

**SECTION V.** THAT this resolution be noticed and notice of the hearing concerning the vacation of the medians as described herein be given as provided by law.

**PASSED** by the City Council of Missoula, Montana, and approved by the Mayor this 7<sup>th</sup> day of October, 2019.

**ATTEST:**

**APPROVED:**

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Martha L. Rehbein, CMC  
City Clerk

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John Engen  
Mayor

(SEAL)