

RESOLUTIONS OF THE CITY OF HELENA, MONTANA

RESOLUTION NO. 20674

A RESOLUTION VACATING THE FULL WIDTH OF THE ALLEY ADJACENT TO LOTS 11, 12, AND 13 IN BLOCK 36 OF THE FLOWER GARDEN ADDITION TO THE CITY OF HELENA, MONTANA

WHEREAS, Big Sky Auto Glass, Inc. ("BSAG") owns Lots 11, 12, and 13 in Block 36 of the Flower Garden Addition to the City of Helena, Montana (the "BSAG Property");

WHEREAS, the City of Helena (the "City") owns approximately 4.38 acres of real property in the southeast $\frac{1}{4}$ of the of the northwest $\frac{1}{4}$ of Section 20, Township 10 North, Range 3 West, which property is more particularly described on Lewis & Clark County Certificate of Survey No. 402032 (the "City Property");

WHEREAS, an alley is located between the BSAG Property and the City Property, with the BSAG Property situated to the south of the alley and the City Property situated to the north of the alley;

WHEREAS, BSAG has petitioned the City for vacation of the entire width of the alley between the BSAG Property and the City Property, with the vacation beginning at the westernmost lot line of Lot 11 in Block 36 of the Flower Garden Addition and ending at the easternmost lot line of Lot 13 in Block 36 of the Flower Garden Addition, a proposed vacation of approximately 1,741 square feet of right-of-way (the "Right-of-Way");

WHEREAS, BSAG owns other property in the area identified as

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Lot 14 in Block 36 of the Flower Garden Addition;

WHEREAS, a City-owned sanitary sewer main crosses under and through Lot 14 in Block 36 of the Flower Garden Addition even though the City has no recorded utility easement that encumbers the property;

WHEREAS, BSAG has proposed that, upon vacation, the entirety of the land comprising the Right-of-Way be transferred to BSAG's ownership, free of charge;

WHEREAS, in exchange for BSAG acquiring the entirety of the land comprising the Right-of-Way without charge, BSAG has proposed to create and grant to the City a utility easement for the sanitary sewer main that crosses under and through Lot 14 in Block 36 of the Flower Garden Addition;

WHEREAS, it appears to be in the best interests of the City and the inhabitants thereof to vacate the Right-of-Way; and

WHEREAS, the Helena City Commission held a public hearing on this matter on the 7th day of June, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF HELENA, MONTANA:

Section 1. The Helena City Commission hereby vacates the entire width of the Right-of-Way and agree that the entirety of

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the land comprising the Right-of-Way be transferred to BSAG's ownership.

Section 2. The above-described approval is conditioned upon satisfactory completion of the requirements set forth below. If the requirements are not completed within one (1) year after the date of this resolution, or as extended by the City Commission, the approval shall be void and the application for vacation will be treated as if it were denied. The requirements for completion of vacation are:

A. The Applicants shall cause an amended plat to be prepared showing: (i) the proposed new boundary lines of the adjoining property to which title will revert upon vacation of the right-of-way; and (ii) a sanitary sewer easement that will allow the City to maintain the sanitary sewer main across Lot 14, Block 36 of the Flower Garden Addition. The amended plat shall be presented to the Commission for review and approval.

B. The Applicants shall prepare a quitclaim deed for transfer of the vacated right-of-way.

C. The Applicants shall sign all documents required to convey to the City a stormwater easement that will allow the City to maintain the stormwater facilities that are in the vacated right-

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of-way.

D. The transfer fee to the City of Helena is waived in exchange for BSAG granting to the City a utility easement for the sanitary sewer main that crosses under and through Lot 14 in Block 36 of the Flower Garden Addition.

E. All pending taxes and special assessments levied against the properties affected by the proposed vacation must be paid in full. Applicants shall furnish proof of payment of these taxes and special assessments.

F. The Applicants shall file the amended plat and the quit claim deed with the Clerk & Recorder of Lewis & Clark County, Montana. The vacation is effective only upon the filing of the amended plat and recording of the quit claim deed.

**PASSED AND EFFECTIVE BY THE COMMISSION OF THE CITY OF HELENA,
MONTANA, THIS 7th DAY OF JUNE, 2021.**

/S/ WILMOT COLLINS
MAYOR

ATTEST:

/S/ DANNAI CLAYBORN
CLERK OF THE COMMISSION