RESOLUTION NUMBER ____________


WHEREAS, City Council Resolution No. 6850 adopted October 4, 2004 vacated all the legally platted Inez Street right-of-way between Lot 24, Block 7 and Lot 1, Block 8 of the Cook’s Addition from the southern right-of-way boundary line of South 2nd Street and the northern right-of-way boundary line of the alley in blocks 7 and 8 of the Cook’s Addition as shown on the official plat filed January 6, 1890 in Book 1, Page 845 of the Missoula County Clerk and Recorder’s records and retraced in Certificate of survey Number 5252 filed with the Missoula County Clerk and Recorder March 12, 2002, all located in Section 21, Township 13 North, Range 19 West, P.M.M. Missoula Montana; and

WHEREAS, City Council Resolution No. 6850 placed two (2) deadlines for conditions to be met by the owners of Lots 22 through 24, Block 7 and Lots 1 through 5, Block 8 of the Cook’s Addition and those conditions included:

1. That by December 4, 2004, the owners of Lots 22 through 24, Block 7 and Lots 1 through 5, Block 8, Cook’s Addition grant the City a 20-foot wide permanent public access easement adjacent and parallel to the west boundary line of Lot 22, Block 7, Cook’s Addition for the purpose of public ingress and egress to the alley in Block 7, Cook’s Addition.

2. That by October 4, 2006, the owners of Lots 22 through 24, Block 7 and Lots 1 through 5, Block 8, Cook’s Addition builds and improves the 20-foot wide permanent public access easement with pavement, from South 2nd Street to the alley in Block 7, Cook’s Addition along with the new development proposed by the owners.

FURTHER, the first condition was met by said owners and the second condition has not been met due to extenuating and unforeseen financial situations affecting the owners and preventing the ability to meet the remaining condition; and

WHEREAS, the Public Access Easement filed on December 22, 2004 in the Missoula County Clerk and Recorder’s records in Book 745 at Page 574, attached hereto as Exhibit A, was granted to the City of Missoula by the owners of Lots 22 through 24, Block 7 and Lots 1 through 5, Block 8, Cook’s Addition as a condition of vacation required under Council Resolution No. 6850; and

WHEREAS, no public path or walkway has been constructed within the aforesaid easement and the easement was not designated as a public utility easement; and

WHEREAS, City Council believes that the reasons for closing and vacating said easement set forth are good and valid and that the said easement should be closed and vacated; and

WHEREAS, Resolution No. 6850 stated, “If these conditions are not met within the described time periods, the vacation of this right-of-way will become null and void.” FURTHER, to assure a clear and concise public record regarding the status of the Inez public right-of-way, Council is declaring the vacation of the Inez Street right-of-way described within null and void to restore the right-of-way to the public trust; and
NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL of the City of Missoula, Montana that Resolution No. 6850 is hereby rescinded; the vacation of the aforesaid portion of Inez Street is declared null and void; is hereby restored to the public trust as public right-of-way and remains dedicated for the purposes and uses of the public; and

BE IT FURTHER RESOLVED that the aforesaid Public Access Easement is hereby closed and vacated and returned to the property owners of said lots without encumbrance for private purposes and uses.

PASSED by the City Council of Missoula, Montana, and approved by the Mayor this _____ day of May, 2010.

ATTEST:                          APPROVED:

Martha L. Rehbein, CMC          John Engen
City Clerk                      Mayor

(SEAL)
GRANT OF PUBLIC ACCESS EASEMENT

BE IT KNOWN: That at Missoula, Montana, on this 2nd day of November, 2004, MISSOULA IRRIGATION DISTRICT, a Public Corporation, created and existing under the Laws of the State of Montana, acting by and through its Chairman of the Board and attestation of its Secretary, for and in consideration of the vacation of the rights-of-way that revert to and attach to adjacent properties of Missoula Irrigation District located in the City of Missoula, County of Missoula, Montana, in accordance with § 70-16-202 MCA, as follow:

The Western one-half (30-foot) portion of vacated Inez Street between South 2nd Street and the alley in Block 7 from the centerline of the street shall attach to Lot 24, Block 7 of the Cook’s Addition. The Eastern one-half (30-foot) portion of vacated Inez Street between South 2nd Street and the alley in Block 8 from the centerline of the street shall attach to Lot 1, Block 8 of the Cook’s Addition.

Missoula Irrigation District, therefore, does hereby dedicate and grant unto the City of Missoula, Missoula County, Montana, the following:

A twenty (20) foot wide permanent public access easement adjacent and parallel to the west boundary line of Lot 22, Block 7, Cook’s Addition for the purpose of public ingress and egress to the alley in Block 7, Cook’s Addition to the City of Missoula, Missoula County, Montana.

That this grant and dedication of public access easement is made, executed and delivered to the City of Missoula, Montana, in compliance with and in reference to the requirements of: A Resolution Closing And Vacating All Of The Platted Inez Street Right-of-Way between South 2nd and the Alley in Blocks 7 and 8 of the Cook’s Addition (section 21, Township 13 North, Range 19 West, P.M.M.) passed by the City Council of Missoula, Montana, and approved by the
Mayor on October 4, 2004.

Dated this 9th day of November, 2004.

MISSOULA IRRIGATION DISTRICT
A Public Corporation

By: Ben C. Lowman
Chairman of the Board

ATTEST:
Secretary

STATE OF MONTANA

County of Missoula

This instrument was acknowledged before me on this 9th day of November, 2004, by Ben Lowman, Chairman of the board and Raymond P. Tipp, secretary of Missoula Irrigation District, and they acknowledged to me that they executed the foregoing instrument in behalf of said Missoula Irrigation District.

Attended by:

Jennifer J. Morgan

Notary Public for the State of Montana

Printed Name: Jennifer J. Morgan
Residing at: Stevensville, MT
My commission expires: 9-30-2008

ACCEPTED BY:

Martha L. Riebein
City Clerk

Date: 11/4/04

Mike Kadas
Mayor

Date: 12/3/04

(SEAL)