

Agenda Items



City of Billings

PUBLIC WORKS DEPARTMENT

Administration

2224 Montana Ave.
Billings, Montana 59101
Office (406) 657-8231
Fax (406) 237-6291

Memorandum

TO: Mayor and City Council
FROM: Vern Heisler, Deputy Public Works Director
DATE: June 6, 2018

SUBJECT: Correction to resolution for pedestrian skyway between parking garage and Stillwater building

Item 1F is for approval of a resolution authorizing permit for construction of a pedestrian skyway between the new parking garage and the Stillwater building. It was brought to our attention that the owner of the Stillwater building is not the same owner of the parking garage. Attached is a corrected resolution with the proper ownership in it. Also, the Skybridge description has been changed to be Exhibit A of the resolution.

Thank you.

RESOLUTION 18-_____

**A RESOLUTION AUTHORIZING PERMIT FOR
CONSTRUCTION AND MAINTENANCE OF
PEDESTRIAN SKYWAY**

WHEREAS, Section 6-901, BMCC, encourages the private development over city streets and alleys of enclosed pedestrian skyways, but subject to uniform minimum standards to ensure that all such structures shall be constructed, finished, lighted and maintained in compliance with all applicable codes, and shall consistently be of high quality and attractive design and construction so as not to be detrimental to the surrounding properties, and so that they shall contribute to orderly and desirable development of the surrounding areas in the interest of the general public; and

WHEREAS, continued development within downtown Billings is often dependent upon pedestrian skyway connections between office buildings and parking facilities over city streets and alleys to promote pedestrian safety, convenience and access; and

WHEREAS, WC Commercial LLC is the Owner of the Stillwater Building which is a multi-story office building located at 316 North 26th Street. CRMX-233 ("the Owner") is constructing a Parking Garage, a multi-story private parking facility, located at 2549 3rd Avenue North, to provide parking to users of the Stillwater Building; and

WHEREAS, the Owner desires to construct and maintain a pedestrian skyway connecting its Parking Garage to the Stillwater Building, identified and attached, hereto, as Exhibit A; and

WHEREAS, City Council is empowered pursuant to §6-902, BMCC, to authorize the issuance of a permit to construct and maintain a pedestrian skyway over and across city streets or alleys upon a finding that such a pedestrian skyway is in the public interest.

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

1. The City Council finds that the construction and maintenance of the pedestrian skyway, identified and attached as Exhibit A, is in the public interest and, therefore, authorizes the Mayor to execute and acknowledge a Permit for the Construction and Maintenance of a Pedestrian Skyway between the City and the Owner, identified and attached as Exhibit B, for the construction and maintenance of a pedestrian skyway connecting the Stillwater Parking Garage to the Stillwater Building over and across North 26th Street.

2. Pursuant to Section 6-903(11), BMCC, the City Council prescribes that Owner, as Permittee, shall obtain prior to commencement of construction of the pedestrian skyway and maintain at all times thereafter until the termination of the permit, for the mutual benefit of the Permittee and the City, general public liability insurance against claims for bodily injury, death or property damage occurring in, on or about the pedestrian skyway, with minimum limits of \$1,500,000 each occurrence, naming the City as an additional insured.

PASSED AND ADOPTED by the City Council of the City of Billings, Montana, on the _____ day of _____, 2018.

CITY OF BILLINGS

By: _____
William A. Cole, Mayor

ATTEST:

By: _____
Denise R. Bohlman, City Clerk

Exhibit A

The construction of the pedestrian walkway will consist of structural steel trusses at the side walls. They will span from the new parking garage on the east to new columns, approximately 4'-0" east of the property line at the existing office building on the west side of North 26th Street. The new columns will be in the vicinity of the existing canopy at the office building. From there the skybridge will cantilever to the 3rd floor of the office building.

The exterior will be a prefinished metal siding on metal stud walls attached to the trusses. There will be a continuous band of aluminum framed glazing approximately 7'-0" high with solar gray tinted glass. The bottom will be a prefinished metal soffit panel. The sidewalls will create a parapet approximately 12" above a single ply membrane roofing.

**PROCEDURE FOR PERMIT APPLICATION FOR CONSTRUCTION AND
MAINTENANCE OF PEDESTRIAN SKYWAY**

1. Application and Permit form can be obtained from the City Engineering Division.
2. Complete original form and one copy must be returned to the Engineering Division with the \$50.00 application fee to cover administrative review costs. The original application will be retained by the City Engineering Division; the duplicate will be the applicant's file copy.
3. The application must be signed by the **Property Owner** of record.
4. At least two weeks review time by the Engineering Division should be allowed. It shall be the applicant's responsibility to coordinate with all appropriate utilities.
5. If the City Council approves the Permit for the Construction and Maintenance of Pedestrian Skyway, the City will forward an executed copy of the Permit to the Public Works Account Clerk for the annual assessment to be placed on the tax rolls.
6. The Public Works Account Clerk will forward the original to Engineering for filing, and will forward an executed copy of the Permit to the property owner.

PERMIT FOR THE CONSTRUCTION AND MAINTENANCE OF A PEDESTRIAN SKYWAY

Subject to the following terms and conditions, this provision is included and is part of the attached permit, is hereby granted:

1. **TERM.** This permit shall be in force and effect from the date for a term of 20 years and thereafter until either the removal of the pedestrian skyway or termination of the permit by the city upon sixty (60) days' written notice to the permittees.
2. **CONSTRUCTION AND MAINTENANCE PERMIT.** The pedestrian skyway hereafter constructed pursuant to this permit shall be erected and maintained within the guidelines of Section 6-903 of the Billings, Montana City Code (BMCC).
3. **REVOCACTION.** This permit may be revoked by the City upon sixty (60) days' written notice to Permittee, at the address shown in the application hereto attached, but the City reserves the right to revoke this permit without giving said notice in the event Permittee breaks any of the conditions or terms set forth herein.
4. **BINDING COVENANT.** This permit and conditions shall run with the land binding the owners of the buildings connected by the pedestrian skyway, and their successors and assigns, to comply with the terms of the permit.
5. **CHANGES IN STREET.** If City changes street necessitating changes in structure or installations installed under this permit, Permittee shall make necessary changes without expense to City.
6. **CITY SAVED HARMLESS FROM CLAIMS.** The Permittee shall at all times during the continuance of the permit indemnify and hold the city harmless of and from all claims, demands, actions and liability of any kind whatsoever for damage to persons or property resulting from the construction, use or maintenance of skyway in the public right-of-way. The Permittee shall obtain prior to commencement of construction of the skyway and maintain at all times thereafter until the termination of the permit, for the mutual benefit of the Permittee and the city, general public liability insurance against claims for bodily injury, death or property damage occurring in, on or about the pedestrian skyway, such insurance to afford protection to limits as prescribed by council resolution, and to be issued by a company or companies licensed to do business in the state. Such polices shall provide that such insurance cannot be cancelled without prior written notice to the city.
7. **PROTECTION OF TRAFFIC.** Insofar as the interests of the City and the traveling public are concerned, all work performed under this permit shall be done under the supervision of the City Engineer of the City of Billings and his authorized representatives, and he/they shall indicate barriers to be erected, the lighting thereof at night, placing of flagmen and watchmen, manner which traffic is to be handled, shall specify to Permittee new road surfaces to be replaced if it is disturbed during operations, but said supervision shall in no way operate to relieve or discharge Permittee from any of the obligations assumed by acceptance of this permit, and especially those set forth under Section 6, hereof.
8. **STREET AND DRAINAGE.** If the work done under this permit interferes in any way with the drainage of the City streets or alleys affected, Permittee shall, at their own expense, make such provisions as the City may direct to take care of drainage.
9. **RUBBISH AND DEBRIS.** Upon completion of work contemplated under this permit, all rubbish and debris shall be immediately removed and the roadway and roadside left in a neat and presentable condition satisfactory to the City.
10. **WORK TO BE SUPERVISED BY THE CITY.** All work contemplated under this permit shall be done under the supervision of, and to the satisfaction of, an authorized representative of the City, and the City hereby reserves the right to order the change of location or removal of any structure or installation authorized by this permit at any time, said changes or removal to be made at the sole expense of the Permittee.
11. **CITY RIGHT NOT TO BE INTERFERED WITH.** All such changes, reconstruction or relocation shall be done by Permittee in such a manner as will cause the least interference with any of the City's work, and the City shall not be liable for any damage to the Permittee by reasons of any such work by the City, its agents, contractors or representatives, or by the installations or structures placed under this permit.

12. **REMOVAL OF INSTALLATIONS OR STRUCTURES.** Unless waived by the City upon termination of this permit, the Permittee shall remove the installations or structures contemplated by this permit and restore the premises to the condition existing at the time of entering upon the same under this permit, reasonable and ordinary wear and tear and damage by the elements, or by circumstances over which the Permittee has no control, excepted.

13. **MAINTENANCE AT EXPENSE OF PERMITTEE.** The pedestrian skyway shall at all times be maintained in good condition, both interior and exterior, by the permitted, without expense to the city.

14. **CITY NOT LIABLE FOR DAMAGE TO INSTALLATIONS.** In accepting this permit, the Permittee agrees that the City shall not be held liable for any damage or injury done to said installations or structures by any City employee engaged in construction, alteration, repair, maintenance or improvement of the City street or alley.

15. **CITY TO BE REIMBURSED FOR REPAIRING ROADWAY.** Upon being billed therefore Permittee agrees to promptly reimburse City for any expense incurred in repairing surface of roadway due to settlement at installation, or for any damage to roadway or structure as a result of the work performed under this permit.

16. **OTHER CONDITIONS AND/OR REMARKS.** If this encroachment involves excavation in the public right-of-way, (1) a licensed and bonded contractor must obtain a right-of-way permit from the City Engineer's Office prior to start of work; and (2) applicant must maintain a subscription to Montana One-Call System for locating utility lines and underground facilities.

Dated at _____, Montana, this _____ day of _____, 20_____.

The undersigned, the "Permittee" mentioned in the foregoing instrument, hereby accepts this permit, together with all of the terms and conditions set forth therein.

City of Billings

BY: _____

Mayor, William A. Cole

(PROPERTY OWNER)

(DATE)

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, June 11, 2018

TITLE: City Emergency and Waiving Competitive Bidding Requirement
DEPARTMENT: Public Works Department
PRESENTED BY: David Mumford, Director, Public Works Department

PROBLEM/ISSUE STATEMENT: On June 4, 2018 the Public Works Department discovered the outfall to the Yellowstone River for the City-County Drain south of Interstate 90 in the area of the old Washington Street Bridge has been damaged. The Public Works Department had been receiving complaints of storm water ponding over inlets and water in the storm water ponds in the Kings Green Subdivision. The City-County Drain is adjacent to and on the east side of this subdivision. This drain collects storm water from a large area of the city and it also collects some groundwater. Historically this drain has flowed to near the Yellowstone River and then would outflow into an old dry or mostly dry river channel. The result is the water entered the river much further downstream and at a lower elevation. This year's high river water levels and associated hydraulic conditions have changed the location of the river channel in this area which has also changed the drain outfall. Due to erosion, the water is no longer able to flow in the old channel previously used and instead flows into the river much further upstream than before where the river is over 10 feet higher than the previous point the flow entered the river. This results in a much higher water level in the drain, resulting in water in the ponds and ponding over the storm sewer inlets because they flow into the drain.

Due to the potential for damage, it is the City Staff's recommendation that this work take place as soon as possible. Section 7-5-4302 of the MCA requires advertising for competitive bids and accepting the lowest responsive bid. Public Works is currently working on a solution and for this problem. Competitive bidding is impractical because the time to advertise and analyze bids and award a contract would require several weeks before the work could begin. Section 7-5-4303 of the MCA allows cities to declare an emergency and waive the requirement for advertising and competitive bidding when $\frac{3}{4}$ of the Council members present at the meeting declare an emergency.

FINANCIAL IMPACT: The estimated cost is unknown at this time. The project will use storm drain funding.

RECOMMENDATION

Staff recommends that Council adopt a resolution declaring an emergency and waiving the competitive bidding requirement to repair the drain outfall.

Approved By: **City Administrator** _____ **City Attorney** _____

ATTACHMENT

A: Resolution

RESOLUTION 18-_____

**A RESOLUTION DECLARING AN EMERGENCY
AND WAIVING THE REQUIREMENT FOR COMPETITIVE BIDS
AS CONTAINED IN 7-5-4302 AND 7-5-4303 MCA**

WHEREAS, the City-County Drain outfall has been damaged and must be repaired immediately so that the drain can continue to operate, and

WHEREAS, 7-5-4302 MCA requires cities to advertise for competitive bids and to award the bid to the lowest responsive bidder, and

WHEREAS, competitive bidding requires an advertising and award process that would delay the repair, and

WHEREAS, 7-5-4303 MCA allows cities to waive the competitive bidding requirements if $\frac{3}{4}$ of the members present at the meeting of the City Council declare an emergency.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA, as follows:

1. EMERGENCY DELCARED. The damage to the City-County drain outfall and potential damage to private property are declared an emergency due to the unanticipated event, the damage incurred and the requirement to repair the drain outfall.
2. COMPETITIVE BIDDING WAIVED. Due to the declared emergency, the City Council waives the competitive bidding requirements for repairing the drain outfall as permitted by 7-5-4303 MCA.

APPROVED by at least $\frac{3}{4}$ of the members present at the meeting of the City Council of the City of Billings, Montana, on the 11th day of June, 2018.

CITY OF BILLINGS

By: _____
William A. Cole, Mayor

ATTEST:

By: _____
Denise R. Bohlman, City Clerk