

RESOLUTION NO. 11-19028

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

WHEREAS, on October 9, 2010, approximately 1,000 tons of rock detached from undeveloped City park land on sandstone cliffs, commonly known as the Rimrocks, on the north side of the Yellowstone River Valley in Billings, Montana, and toppled down the talus slope, breaking into several large boulders, a number of which struck against, or penetrated and severely damaged, a residential structure located at 1313 Granite Avenue; and

WHEREAS, City staff have consulted with an engineering firm that has advised the City that the large boulder that penetrated the structure continues to rotate downward inside and through the structure and could dislodge without warning, causing damage to additional public or private property; and

WHEREAS, a 150-ton remnant of the formation that separated from the rock face and toppled down the talus slope on October 9, 2010, remains standing on the ledge near the top of the Rimrock face and several other large fragments of the rock face that toppled have temporarily come to rest on the steep talus slope against and above the structure in a manner such that, if any were dislodged, they could resume toppling down the slope and cause additional damage to the structure or other public or private property, or grievous bodily injury and loss of life; and

WHEREAS, it is the finding of the City Council of the City of Billings that the boulders described above constitute an imminent threat to the public health, welfare and safety of the residents of and visitors to the City of Billings and should be stabilized or removed from the structure, the talus slopes, and the Rimrock face in the safest and most expeditious manner practicable in order to prevent or minimize the possibility of any future unplanned and uncontrolled rolling or toppling of boulders down the slopes, thereby protecting lives, preventing grievous bodily injury and preserving property and the safety of the public, and

WHEREAS, city staff and consulting engineers have identified and consulted with various firms who have experience in performing the rock stabilization and removal work required in situations similar to the one now confronting the residents of the City of Billings, and three of those firms have submitted three separate and competing proposals for remediating the situation and alleviating the existing peril described above; and

WHEREAS, Section 7-5-4302 MCA requires cities to advertise for competitive bids and to award the bid to the lowest responsive bidder for construction, maintenance or repairs over \$50,000 in value; and

WHEREAS, competitive bidding requires detailed plans and specifications, advertising for bids and awarding a contract to the low bidder; a process that would delay stabilizing and/or

removing the sandstone boulders from the identified property locations for at least three to four months; and

WHEREAS, Section 7-5-4303 MCA allows cities to waive the competitive bidding requirements if three-fourths (3/4) of the members of the City Council present declare an emergency.

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

1. EMERGENCY DECLARED. That a large sandstone boulder that detached from the Rimrocks on October 9, 2010, and damaged a residence at 1313 Granite Avenue; the fragments of that boulder that are now at least temporarily at rest on the ledge and slope above 1313 Granite Avenue; and the large, detached boulders at this location all are declared to be a public nuisance constituting a public emergency. City staff is instructed to undertake any and all reasonable measures to remove and/or stabilize the rock as soon as possible in light of the damage at 1313 Granite, in view of the many residential properties located below this site, due to the continued grinding of the large boulder through the structure, and because of the possibility that any of the other boulders described above could topple at any time, all of which constitutes an immediate threat to the health, welfare and safety of the public and would almost certainly cause further damage to additional public or private property and could result in grievous bodily injury or death to persons.
2. COMPETITIVE BIDDING WAIVED. Due to the declared emergency, the City Council waives the competitive bidding requirement for removing or stabilizing the sandstone boulders at the identified locations, as permitted by 7-5-4303 MCA, and hereby awards the contract for the removal or stabilization of the rock as described above to Accurate Concrete Cutting, Inc., in the amount of \$139,225.

APPROVED by at least three-fourths (3/4) of the members of the City Council of the City of Billings, Montana, present on this 14th day of February, 2011.



CITY OF BILLINGS

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

ATTEST:

Cari Martin
Cari Martin, CITY CLERK