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EXHIBIT 9
DATE 2/16/2011
HB 462

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Topic: HOUSE BILL NO. 462
Position: Opposed

The premise upon which HOUSE BILL NO.462 is based is not correct as applied to the state of Montana

1. **<u>No need for the legislation:</u> We have spoken to our subcontractors, and they indicated that bid shopping seldom occurs in Montana. The subs who said it occurs believe that this legislation does not address it, since when bid shopping occurs, it happens more frequently before the letting, rather than after the letting.**

2. **<u>Section 2, Legislative Findings:</u> The statement that seeking lower price bids will result in poor quality of materials and workmanship <u>is wrong</u>. The prime contractor is responsible for the quality of the product. Saving costs does not equate to lower quality, because the prime contractor is responsible for insuring project specifications are met.**

Additional Comments:

3. <u>Section 4 Listing of subcontractor – requirements:</u> Contractors don't always know which subcontractor is the lowest bid on the day of the letting due to
   a. The bid proposal alternatives that the state is requesting, and
   b. Due to differences in the way the subcontractors provide their bids and add stipulations thus requiring time to evaluate the bids to determine who is the most responsive. Note that conversations with subs held immediately prior to the bid letting can result in information being transferred (unintentionally) about their competitor's bids. In addition, details conveyed to the subcontractor about how we want their bid can provide insight into how our bids are prepared that could be passed to our competitors

4. **<u>Section 5, item (1) Substitution of subcontractors:</u> Places "using agency" in the position of <u>arbitrating between the prime and the subs</u>.**

5. <u>Section 5, item (4) Substitution of subcontractors:</u> This section removes the flexibility to revise how the job will be executed. For instance, if the Contractor bids the project to perform the work internally (without identifying a subcontractor) but later decides that a subcontractor should be used due to changing circumstances (such as schedule restraints) this section would prevent making that change – potentially to the detriment of the project.