

Presented by: The Manager  
Introduced: 06/27/2022  
Drafted by: R. Palmer III

## ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2022-35

### **An Ordinance Authorizing an Alternative Procurement Method Related to the City and Borough's Mendenhall Waste Water Treatment Plant Infrastructure Upgrade.**

WHEREAS, the Mendenhall Waste Water Treatment Plant (MWWTP) is a critical utility for the City and Borough's (CBJ's) treatment of waste water from the hospital area, Lemon Creek, and much of the Mendenhall Valley; and

WHEREAS, the MWWTP is currently controlled by a 1980s Single Board Computer and an Allen Bradley PLC 540E Programmable Logic Controller, which are now obsolete systems and unsupported by their original manufacturer; and

WHEREAS, in order to modernize the MWWTP, the CBJ approved the Waste Water Controls and Supervisory Control and Data Acquisition (SCADA) upgrade project; and

WHEREAS, the Waste Water SCADA project is intended to replace the current computer and controller with a SCADA system for MWWTP operators to better monitor and control the treatment plant's processes; and

WHEREAS, in 2021, the CBJ signed a compliance order by consent with the State of Alaska Department of Environmental Conservation that recognized the critical nature of the SCADA upgrades to plant performance and includes a requirement to complete the SCADA project by November 2024; and

WHEREAS, modernizing the MWWTP will require a fully collaborative process between the CBJ, the design team, and the SCADA contractors; and

WHEREAS, the consequences of failure of a critical utility are significant, including the possibility of flooding homes with sewage or releasing inadequately treated wastewater to the Mendenhall River; and

WHEREAS, reaching 100% design before any construction has commenced is not practical because some form of deconstruction needs to occur in the old control sections to fully as-built that infrastructure and develop a controls switch-over plan; and

WHEREAS, attempting to complete the project using design-bid-build would create plant outages early on and draw the construction phase of the project out, resulting in higher design and construction costs, extra work for plant staff, the likelihood of expensive change orders, and an unreasonable risk of plant failures; and

WHEREAS, the project design plans are at a point in which a construction company joining the project would add substantial value to help guide the completion of the design, plan for the cut over from the old system to the new, and begin some preliminary construction tasks; and

WHEREAS, an alternative procurement approach, such as Construction Manager at Risk (CMAR) can address many of these risks because it allows the design team to anticipate and address issues that arise by close collaboration with the construction team and is ideally suited for projects with high complexity and many unknowns; and

WHEREAS, a purpose of the CBJ's purchasing process is to provide for a fair and equitable method of procuring services and improvements while maximizing the value of public funds and benefit to the community; and

WHEREAS, CBJ Charter Section 9.14(b)(6) requires public improvements be procured by competitive bid except that the Assembly—by ordinance—may adopt an alternative procurement method upon the City Manager finding it would be in the best interest of the City and Borough to do so based on cost, timing, and other relevant criteria.

THEREFORE BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

**Section 1. Classification.** This ordinance is a noncode ordinance.

**Section 2. Conflicts with Chapter CBJC 53.50.** To the extent the alternative procurement authorized pursuant to this ordinance conflicts with provisions in CBJC 53.50, this ordinance controls.

**Section 3. Maximum Dollar Amount.** The alternative procurement authorized pursuant to this ordinance shall not exceed \$3,900,000. The source of funds is the Waste Water SCADA Improvement Capital Improvement Project.

**Section 4. Methodology: Construction Manager at Risk (CMAR).** With a CMAR procurement method, a construction management company assumes the risk for construction of the Waste Water SCADA project, within a Guaranteed Maximum Price as a general contractor, and provides consultation to the CBJ regarding construction during and after design of the Waste Water SCADA project.

**Section 5. Best Interest Finding.** The Assembly concurs with the City Manager's best interest finding. A CMAR alternative procurement is in the best interest of the City and Borough of Juneau and the public for the infrastructure upgrades to the Mendenhall Waste Water Treatment Plant. This finding is premised upon the following:

- (a) The Mendenhall Waste Water Treatment Plant is a critical CBJ utility that operates constantly and a high degree of coordination is required because the waste water system is unable to be shut down during the project; and
- (b) The infrastructure upgrades are complex and include high risk of environmental, customer, and regulatory harm, including: failure of the treatment plant operations, incapacitation of one or more treatment processes, poorly treated effluent discharges, pollution, environmental damage, customer harm, and fines from the regulating agencies; and
- (c) The CMAR approach can mitigate many of the risks because it allows the design team to anticipate and address issues that arise by close collaboration with the construction team to minimize the threat to infrastructure and the environment.

**Section 6. Criteria for Selection of a Construction Manager at Risk**

**Procurement.** The procurement shall include qualifications-based selection criteria designed to provide the CBJ with the best value, including the following terms:

- 1. Firm history and qualifications
- 2. Experience with similar projects
- 3. Personnel proposed
- 4. Safety record
- 5. Project understanding and approach
- 6. Quality control program
- 7. Pre-construction service fees

**Section 7. Approval Process.** The City Manager is authorized to competitively solicit proposals, rate the proposals consistent with the criteria prescribed by this ordinance, and present a recommended CMAR company proposal to the Assembly for approval. The City Manager would then be authorized to negotiate and contract with the CMAR company approved by the Assembly.

**Section 8. Effective Date.** This ordinance shall be effective 30 days after its adoption.

Adopted this 11<sup>th</sup> day of July, 2022.



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Beth A. Weldon, Mayor

Attest:



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Elizabeth J. McEwen, Municipal Clerk