

Presented by: The Manager

Presented: 09/12/2022

Drafted by: R. Palmer III

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

Serial No. 2022-51

### **An Ordinance Authorizing an Alternative Procurement Method Related to the Emergency Department Addition and Renovation at Bartlett Regional Hospital.**

WHEREAS, the Bartlett Regional Hospital (BRH) Emergency Department is a critical facility for the health and welfare of the citizens of the City and Borough of Juneau (CBJ); and

WHEREAS, the new addition and renovation will provide an airborne infection isolation space and additional negative-pressure exam rooms necessary for treatment and containment of illnesses caused by airborne diseases; and

WHEREAS, minimal disruption to Emergency Department operations during construction of the addition and renovation is critical; and

WHEREAS, the Construction Manager at Risk (CMAR), a form of General Contractor/Construction Manager (GC/CM), procurement method supports early involvement in the design phase through Preconstruction Consulting Services by a General Contractor, thereby mitigating risks to disruption of Emergency Department operations during construction, developing compliance measures with Infection Control Risk Assessment requirements during construction, developing phasing plans for construction, and providing real time cost estimating and value engineering services; 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, develop phasing plans and recommend sequence of construction operations to minimize disruption to Emergency Department operations during construction while maintaining a dust-free healthcare environment; and

WHEREAS, an alternative procurement approach, such as 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

1 WHEREAS, CBJ Charter Section 9.14(b)(6) requires public improvements be procured by  
2 competitive bid except that the Assembly—by ordinance—may adopt an alternative  
3 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; and

4 WHEREAS, A.S. 18.07.031 prohibits a person from making an expenditure of more than  
5 \$1,500,000 for the alteration of the bed capacity of a health care facility without a certificate of  
need issued by the State of Alaska; and

6 WHEREAS, at this time, the State of Alaska has neither issued a certificate of need nor  
7 issued a determination that a certificate of need is not required for this project; and

8 WHEREAS, the Assembly has appropriated \$12,450,000 into the BRH Emergency  
9 Department Addition Capital Improvement Project; and

10 WHEREAS, CBJ and BRH personnel estimate that they will not expend more than  
11 \$1,493,000 on the BRH Emergency Department addition and renovation until a certificate of  
need is obtained or the State of Alaska determines a certificate of need is not required; and

12 WHEREAS, CBJ Charter 9.13(a)-(b) invalidates payments made in excess of appropriation  
13 authority and all employees who knowingly authorize or make such payments shall be jointly  
and severally liable to the CBJ for the full amount; and

14 WHEREAS, a supplemental appropriation will be presented for the Assembly's  
15 consideration when the contract negotiations mature and after a certificate of need is obtained  
or determined not to be needed.

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

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

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

21 **Section 3. Maximum Dollar Amount.** The alternative procurement authorized  
22 pursuant to this ordinance shall not exceed \$15,000,000. The source of funds is the BRH  
Emergency Department Addition Capital Improvement Project.

23 **Section 4. Methodology: Construction Manager at Risk (CMAR).** With a CMAR  
24 procurement method, a construction management company assumes the risk for construction of  
the Emergency Department Addition and Renovation, within a negotiated Guaranteed  
25 Maximum Price as a general contractor, and provides consultation to the CBJ regarding  
construction during and after design of the Emergency Department Addition and Renovation  
project.

1       **Section 5. Best Interest Finding.** The Assembly concurs with the City Manager's  
2 best interest finding. A CMAR alternative procurement is in the best interest of the City and  
3 Borough of Juneau and the public for the BRH Emergency Department Addition and  
Renovation. This finding is premised upon the following:

- 4       (a) As the only Emergency Department serving the community of the City and Borough  
5 of Juneau, minimal disruption to the operations of the Emergency Department  
6 during construction is critical to the health and welfare of the citizens of Juneau;  
7 and  
8       (b) The phasing of the addition and renovation of the existing Emergency Department  
9 is complex, requiring separation of construction activities and Emergency  
10 Department operations to maintain a clean and healthy environment for  
Emergency Department operations; and  
11       (c) The CMAR approach can mitigate many of the risks because it allows the design  
12 team to anticipate and address issues that arise by close collaboration with the  
13 construction team to minimize the disruption to Emergency Department operations  
14 and by maintaining a clean and healthy environment throughout construction.

11       **Section 6. Criteria for Selection of a Construction Manager at Risk**  
12 **Procurement.** The procurement shall include qualifications-based selection criteria designed  
13 to provide the CBJ with the best value, including the following terms:

- 14           1. Firm history and qualifications  
15           2. Experience with similar projects  
16           3. Personnel proposed  
17           4. Safety record  
18           5. Project understanding and approach  
19           6. Quality control program  
20           7. Preconstruction service fees

18       **Section 7. Approval Process.** The City Manager is authorized to competitively solicit  
19 proposals, rate the proposals consistent with the criteria prescribed by this ordinance, and  
20 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.

21       **Section 8. Limitation of Appropriation Authority.** Personnel employed by the CBJ,  
22 including BRH staff, are prohibited from expending more than \$1,500,000 related to the BRH  
23 Emergency Department addition and renovation until a certificate of need is obtained or the  
24 State of Alaska determines a certificate of need is not required. The existing and future  
25 appropriation authority for the Emergency Department Addition and Renovation project is  
limited to \$1,500,000 until a certificate of need is obtained or the State of Alaska determines a  
certificate of need is not required.

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2       **Section 9. Effective Date.** This ordinance shall be effective 30 days after its adoption.

3       Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

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6       Attest:

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Beth A. Weldon, Mayor

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8       \_\_\_\_\_  
Elizabeth J. McEwen, Municipal Clerk