



Alice Ruby, Mayor  
*City Council Members*

- Doug Holt • Paul Liedberg • Bob Himschoot
- Keggie Tubbs • Tracy G. Hightower • Tim Sands

**DILLINGHAM CITY COUNCIL  
MEETING AGENDA - Revised**

David B. Carlson Council Chambers

Dillingham City Hall, 141 Main Street, Dillingham, AK 99576 (907) 842-5212

**SPECIAL MEETING**

**7:00 P.M.**

**JUNE 25, 2012**

- I. CALL TO ORDER**
- II. ROLL CALL**
- III. APPROVAL OF AGENDA**
- IV. NEW BUSINESS**
  - A. Resolution No. 2012-35, A Resolution of the Dillingham City Council Authorizing Underground Utilities at the 1800 Block of Waskey Road
  - B. Resolution No. 2012-36, A Resolution of the Dillingham City Council Awarding a Contract to Trenchless Construction Services LLC for the Construction of the Snag Point Force Main
  - C. Resolution No. 2012-37, A Resolution of the Dillingham City Council Authorizing Eminent Domain and Use of Declaration of Taking Procedures to Acquire Property Interests Needed for the Installation of Buried Sewer Utilities Under Lots 9, and 9S Block 17, USS 2732 A&B
  - D. Schedule August Meeting
  - E. Hire Interim Police Chief
  - F. Other
- V. CITIZEN'S DISCUSSION (Open to the Public)**
- VI. COUNCIL COMMENTS**
- VII. MAYOR'S COMMENTS**
- VIII. EXECUTIVE SESSION**
  - A. Legal Matter
    - 1. Easement Issue
  - B. Personnel Matter
    - 1. Public Safety and Public Works Depts. – Staffing and Union Negotiations
- IX. ADJOURNMENT**

CITY OF DILLINGHAM, ALASKA

RESOLUTION NO. 2012-35

**A RESOLUTION OF THE DILLINGHAM CITY COUNCIL APPROVING INSTALLATION OF BURIED ELECTRICAL UTILITIES IN THE ROAD AT THE 1800 BLOCK OF WASKEY ROAD**

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WHEREAS, Nushagak Cooperative wishes to expand its fiber optic cable network; and

WHEREAS, the lines will be buried using conduit in the road; and

WHEREAS, there are no other City utilities installed at that place in Waskey Road; and

WHEREAS, the burial of these utilities is not anticipated to present a safety hazard now or in the future; and

WHEREAS, the City Public Works Department and Volunteer Fire and Public Safety Departments do not object to this encroachment; and

WHEREAS, the Planning Commission will not meet for another month and due to the short construction season time is of the essence;

NOW, THEREFORE, BE IT RESOLVED that the Dillingham City Council approves the permanent encroachment of utilities in the street in the 1800 block of Waskey Road, under the following conditions:

- That Nushagak Cooperatives notify the City of Dillingham Administration, Public Works Department, and the Public Safety Department 48 hours in advance of any work on public lands or in the public rights of way.
- That a new encroachment permit be obtained before the utilities are moved from this location;
- That Nushagak Cooperatives restore the public land or public right of way to this former condition or better after completing the utility installations; and
- That Nushagak Cooperatives provide documentation in the form of as-builts or GPS coordinates, or other reliable information, of the actual location of the installation within one month.

PASSED and ADOPTED by the Dillingham City Council June 21, 2012.

SEAL:

\_\_\_\_\_  
Alice Ruby, Mayor

ATTEST:

\_\_\_\_\_  
Janice Williams, City Clerk

City of Dillingham Information Memorandum No. R2012-35

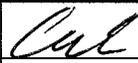
**Subject:** An ordinance of the Dillingham City Council authorizing underground utilities at the 1800 block of Waskey Road

Agenda of: June 25, 2012

Council Action:

Manager: Recommend approval.

City Manager:   
Steve Cropsey, Interim Manager

Route To:	Department / Individual	Initials	Remarks
X	Public Works / Carter Cole		
X	Planning / Jody Seitz		
X	City Clerk / Janice Williams		

**Fiscal Note:** Yes \_\_\_\_\_ No X Funds Available: Yes \_\_\_\_\_ No \_\_\_\_\_

**Other Attachment(s):**

**Summary Statement.**

This resolution is to allow Nushagak Cooperative to put fiber optic cable to their building on Waskey Road. The Planning Commission will not meet for another month and this is the Council's last meeting before August.

The cooperative would like to take advantage of the construction season to install these utilities now.

CITY OF DILLINGHAM, ALASKA

RESOLUTION NO. 2012-36

**A RESOLUTION OF THE DILLINGHAM CITY COUNCIL AWARDING A CONTRACT TO TRENCHLESS CONSTRUCTION SERVICES LLC FOR THE CONSTRUCTION OF THE SNAG POINT FORCE MAIN**

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WHEREAS, the City of Dillingham (City) and US Army Corps of Engineers (USACE) identified an immediate threat to a section of the City's force main exposed on the beach in front of the Snag Point Bulkhead wall; and

WHEREAS, the City of Dillingham received a grant from the State of Alaska in 2011 in the amount of \$1.8 million to relocate the endangered force main; and

WHEREAS, the construction project was advertised pursuant to Alaska State Law, in a newspaper of general circulation for thirty (30) days; and

WHEREAS, the firm of Trenchless Construction Services LLC (Trenchless Construction) specializes in Horizontal Directional Drilling (HDD); and

WHEREAS, Trenchless Construction was the lowest responsible bidder providing all requirements of the contract/bid documents; and

WHEREAS, PND Engineers Inc. has recommended award of the construction contract to Trenchless Construction;

NOW, THEREFORE, BE IT RESOLVED that:

1. The Dillingham City Council hereby awards a contract to Trenchless Construction in the amount of \$1,156,500.
2. The City Council authorizes the Mayor or City Manager to sign said contract on behalf of the City of Dillingham, Alaska.

PASSED and ADOPTED by the Dillingham City Council on June 25, 2012.

SEAL:

\_\_\_\_\_  
Alice Ruby, Mayor

ATTEST:

\_\_\_\_\_  
Janice Williams, City Clerk

City of Dillingham Information Memorandum No. R 2012-36

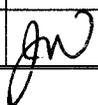
Subject: A Resolution of the Dillingham City Council awarding a contract to Trenchless Construction Services LLC for the construction of the Snag Point Force Main

Agenda of: June 25, 2012

City Council Action:
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Manager: Recommend approval

City Manager:   
Steve Croopsey, Interim City Manager

Route To:	Department / Individual	Initials	Remarks
X	Finance / Carol Shade		
X	City Clerk / Janice Williams		

Fiscal Note: Yes \_\_\_\_\_ No X Funds Available: Yes X No \_\_\_\_\_

Funds are available in the State of Alaska Legislative Grant of 2011 Force Main Replacement

**Other Attachment(s):**

- Sewer Force Main Relocation Bid Summary
- Copy of Contract

**Summary Statement.**

The project is funded from 2011 State of Alaska Legislative Grant for relocation of a portion of the force main located in front of the bulkhead wall in the area of Snag Point. PND Engineering provided construction documents including design services for the construction of a horizontal directionally drilled (HDD) force main. The project was publically bid. Two responsive bids were received and opened and publically read on June 20 at 3:00 p.m. While there was a large difference between the low bidder and the second bidder, PND Engineering reviewed both bids and the low bidder was lower than the engineer's estimate by \$200,000. After reviewing qualifications of the low bidder, PND determined that the low bidder was not only responsive, but responsible, and recommended an award to Trenchless Construction Services LLC, of Arlington Washington. We are informed that while Trenchless Construction Services LLC is the general contractor, the project is going to be prosecuted as a joint venture with locally-owned Bennett Enterprises.

**City of Dillingham  
Sewer Force Main Relocation**

**BID SUMMARY**

--- LOW BIDDER ---

ITEM NO.	BID ITEM	Engineer's Estimate	Bid 1	Bid 2	Bid 3	Bid 4	Bid 5
			Frawner Corp.	Trenchless Construction			
1	Mobilization and Demobilization	\$ 460,000	\$ 318,811	\$ 320,000			
2	Sewer Force Main Relocation	\$ 873,000	\$ 1,394,080	\$ 812,000			
3	Site Cleanup & Restoration	\$ 11,500	\$ 13,163	\$ 10,000			
4	As-Built Drawings & Information	\$ 11,500	\$ 3,290	\$ 14,500			
	<b>BASE BID ITEMS TOTAL</b>	<b>\$ 1,356,000</b>	<b>\$ 1,729,344</b>	<b>\$ 1,156,500</b>			

BID OPENING DATE: JUNE 20, 2012

## AGREEMENT

THIS AGREEMENT is made this \_\_\_\_\_ day of \_\_\_\_\_, 2011 by and between the Owner: City of Dillingham, PO Box 889, Dillingham, AK 99567 and the Contractor: (name) \_\_\_\_\_, (address) \_\_\_\_\_ . The Project is: Dillingham Force Main Relocation Project.

The Owner and Contractor agree as set forth below.

### ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplemental and other Conditions), Drawings, Specifications, addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement. These form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, and other than Modifications, appears in Article 8.

### ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the entire Work described in the Contract Documents, or reasonably inferable by the Contractor as necessary to produce the results intended by the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of others.

### ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

**3.1** The date of commencement of the Work is the date from which the Contract Time of Paragraph 3.2 is measured, and shall be the date of this Agreement, as first written above, unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

**3.2** The Contractor shall diligently prosecute the Work and achieve Substantial Completion of the entire Work not later than **October 1, 2011** for all work subject to adjustments of this Contract Time as provided in the Contract Documents.

**3.3** Time is of the essence for all obligations of the Contractor contained in the Contract Documents.

**3.4** Deleted.

**ARTICLE 4**  
**CONTRACT SUM**

**4.1** The Owner shall pay the Contractor in current funds for the Contractor's performance of the Contract the Contract Sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_), subject to additions and deductions as provided in the Contract Documents.

**4.2** Deleted.

**ARTICLE 5**  
**PROGRESS PAYMENTS**

**5.1** Based upon Applications for Payment, including all supporting documentation, submitted to the Owner and the Engineer by the Contractor and Certificates for Payment issued by the Engineer, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

**5.1.2** The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

**5.1.3** Owner shall make payment to the Contractor pursuant to an application for payment that complies with the Contract within thirty (30) calendar days of the date that the Owner receives the Engineer's certificate for payment.

If part or all of a payment is going to be withheld for unsatisfactory performance, or if the Contractor's application for payment does not comply with the requirements of the Contract, Owner shall within eight (8) working days after receipt of the application for payment notify the Contractor in writing. This notice shall state specifically why part or all of the payment is being withheld and what remedial actions may be taken by the Contractor to receive the full payment. The withheld portion of the payment shall then be paid within twenty-one (21) calendar days after the Contractor satisfactorily completes the remedial actions identified in that notice.

**5.1.4** Each Application for Payment shall be based upon the schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work and be prepared in such form and supported by such data to substantiate its accuracy as the Engineer may require. This schedule, unless objected to by the Engineer, shall be used as a basis for reviewing the Contractor's Applications for Payment.

**5.1.5** Applications for Payment shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

**5.1.6** Subject to the provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

1. Take that portion of the Contract Sum properly allocable to completed Work

as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of ten percent (10%). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute may be included as provided in Article 7.3.7 of the General Conditions even though the Contract Sum has not yet been adjusted by Change Order;

2. Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of ten percent (10%);

3. Subtract the aggregate of previous payments made by the Owner; and

4. Subtract amounts, if any, for which the Engineer has withheld or nullified a Certificate for Payment as provided in Paragraph 9.5 of the General Conditions.

**5.1.7** The progress payment amount determined in accordance with Paragraph 5.1.6 shall be further modified under the following circumstances:

1. Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to 95 percent (95%) of the Contract Sum, less such amounts as the Engineer shall determine for incomplete Work and unsettled claims; and

2. Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Subparagraph 9.10.3 of the General Conditions.

**5.1.8** Owner shall have the option, but not the obligation, to reduce the retainage requirements of this Agreement or release any portion of retainage prior to the date specified in the Contract Documents. Any such reduction or release of retainage or portion thereof, however, shall not be a waiver of any of the Owner's rights to retainage in connection with other payments to the Contractor, or any other right or remedy that the Owner has under the Contract Documents. Interest shall be paid on retainage 1) at the rate of 3.5% per annum or 2) if and to the extent required by applicable law or grant agreements. Otherwise, interest shall not be paid on retainage.

**5.1.9** Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

## **5.2 FINAL PAYMENT**

**5.2.1** Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when (1) the Contract has been fully performed by the Contractor except for the Contractor's responsibility to correct nonconforming Work as provided in Subparagraph 12.2.2 of the General Conditions and to satisfy other requirements, if any, which necessarily survive final payment; (2) a final Certificate for Payment has been issued by the Engineer, and (3) Owner has received verification from the State of Alaska Department of Labor and Workforce Development

("the Department") that: (i) Contractor has complied with AS 36.05.045(a) and (b); (ii) the Department is not conducting an investigation and (iii) the Department has not issued a notice of a violation of AS36.05 to Contractor or any subcontractor working on the Project.

**5.2.2** The Owner's final payment to the Contractor shall be made not more than 30 days after the receipt of verification from the Department; or, if State grant or Federal money will be used to make the payment, within 21 calendar days of the date that the City receives the payment request or the State grant or Federal money, whichever is later.

## **ARTICLE 6** **TERMINATION OR SUSPENSION**

**6.1** The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of the General Conditions.

**6.2** The Work may be suspended by the Owner as provided in Article 14 of the General Conditions.

## **ARTICLE 7** **MISCELLANEOUS PROVISIONS**

**7.1** Where reference is made in this Agreement to a provision of the General Conditions or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

**7.2** Payments due and unpaid under the Contract shall bear interest from the date payment is due at 3.5% per annum.

**7.3** Other provisions:

## **ARTICLE 8** **ENUMERATION OF CONTRACT DOCUMENTS**

**8.1** The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated as follows:

**8.1.1** The Agreement is this executed Agreement between Owner and Contractor.

**8.1.2** The General Conditions are the General Conditions of the Contract for Construction.

**8.1.3** The Supplemental General Conditions and other Conditions of the Contract are in this Project Manual and are as follows:

- Supplemental General Conditions listed in Exhibit A of this document
- Specifications listed in Exhibit C of this Document or as shown on the Project Drawings, which are listed in Exhibit B of this document
- State of Alaska Minimum Rates of Pay (available at

<http://labor.state.ak.us/lss/pamp600.htm>), or current Federal Davis Bacon minimum rates or payment, whichever is the higher amount. Refer to Exhibit D.

8.1.4 Deleted

8.1.5 The Drawings are as follows, and are dated April 2011.

See attached Drawing List Exhibit B

8.1.6 The addenda, if any, are as follows:

<u>Number</u>	<u>Date</u>	<u>Pages</u>
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Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 8.

8.1.7 Other Documents, if any, forming part of the Contract Documents is as follows:

**ARTICLE 9**

**NOT USED**

**ARTICLE 10**  
**SPECIAL PROVISIONS**

10.1 Project Start-Up. A Notice to Proceed shall be issued by the Owner.

10.2 Project Completion. Substantial completion shall be achieved by **October 1, 2011**. Final completion shall be achieved by **October 15, 2011**.

10.3 Pre-Construction Conference. Prior to the start of the work, a conference which shall be attended by the Contractor and the Owner's Representative shall be arranged. The purpose of the conference shall be to discuss any items that may require clarification. Also, the procedure for distribution of all documents and correspondence related to the Contract shall be established at the conference. The pre-construction conference shall be held at a mutually agreed-upon location. At this conference, the Owner may delegate duties to the Engineer as the Owner's Representative, and the Contractor shall abide by the Owner's delegation in performing the Contractor's duties and responsibilities under the Contract Documents. The Owner may waive the pre-construction conference.

No statement, informal agreement or understanding nor any events occurring at the Pre-Construction Conference shall be deemed an amendment or modification of the contract terms, plans and specifications, or Contractor's obligations unless specifically

incorporated in a written change order to the Contract. The extent of such change or limitation shall be limited to that expressly and specifically contained in the change order.

**OWNER**  
City of Dillingham

**CONTRACTOR**  
\_\_\_\_\_

\_\_\_\_\_  
*(Signature)*

\_\_\_\_\_  
*(Signature)*

\_\_\_\_\_  
*(Title)*

\_\_\_\_\_  
*(Printed Name and Title)*

CITY OF DILLINGHAM, ALASKA

RESOLUTION NO. 2012-37

**A RESOLUTION OF THE DILLINGHAM CITY COUNCIL AUTHORIZING EMINENT DOMAIN AND USE OF DECLARATION OF TAKING PROCEDURES TO ACQUIRE PROPERTY INTERESTS NEEDED FOR THE INSTALLATION OF BURIED SEWER UTILITIES UNDER LOTS 9, AND 9S Block 17, USS 2732 A&B**

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WHEREAS, the City of Dillingham (City) and US Army Corps of Engineers (USACE) identified an immediate threat to a section of the City's force main exposed on the beach in front of the Snag Point Bulkhead wall; and

WHEREAS, the City of Dillingham received a grant from the State of Alaska in 2011 in the amount of \$1.8 million to relocate the endangered force main; and

WHEREAS, in Resolution No. 2011-87, the City Council authorized the design for relocation of the City's existing sanitary sewer force main to replace the existing force main that has become exposed in some areas of the beach near Snag Pt.; and

WHEREAS, the relocated force main will be installed by a combination of conventional trench and trenchless horizontal directional drilling (HDD) methods with a minimum depth of bury of 10 ft. for conventional trench and 25 ft. for HDD lines ; and

WHEREAS, the burial of some section of the relocated force main by horizontal directional drilling will occur underneath privately owned property thereby requiring permission from the property owner in the form of an easement; and

WHEREAS, of the 4 easements underneath portions of private property needed for the project, 2 have either already been acquired or are about to close as a result of negotiations with the landowners; and

WHEREAS, there are 2 remaining easements needed from Choggiung Limited (underneath Lot 9S Block 17 USS 2732), and the estate of John S. Wren (underneath Lot 9, Block 17 USS 2732) which the City has not been able to acquire through negotiations with the landowners, although negotiations continue with respect to the Lot 9 parcel; and

WHEREAS, the fair market fee simple value of each of these easements is based on independent appraisals prepared by qualified professional appraisers determination of just compensation, in the following amounts:

Lot 9S, Block 17 (\$500)  
Lot 9, Block 19 (\$500)

WHEREAS, in its negotiations with landowners, and in response to specific concerns articulated by a landowner, the City offered to spend an estimated \$5,000 of public funds evaluating options for extension of sewer service to other parcels of property owned by the same landowner in addition to payment of just compensation, although if eminent domain proceedings have to be instituted by the City, such additional payments above just compensation are not required; and

WHEREAS, AS 29.35.030(a) permits a municipality to use the declaration of taking or "quick take" procedures in exercising the power of eminent domain under AS 09.55.250 – 09.55.460; and

WHEREAS, AS 09.55.420 provides that the governing body of the municipality may exercise the power of eminent domain through the filing of a declaration of taking; and

WHEREAS, use of the declaration of taking or "quick take" procedure will help ensure that the Borough obtains the property interests needed for the project and avoid delays that could further disrupt the Project schedule if the declaration of taking or "quick take" procedure are not used; and

WHEREAS, the City has prepared draft Decisional Documents covering the 2 parcels still to be acquired, which explain to the landowners the basis for the decision to acquire property interests from them for the project, including a summary of relevant project background information, the design alternatives and impacts considered, the Borough's consideration of public benefits and private loss, and that the property interests to be acquired are taken by necessity for a project located in a manner that is most compatible with the greatest public good and the least private injury.

NOW, THEREFORE, BE IT RESOLVED:

1. That the Dillingham City Council authorizes the use of the declaration of taking procedures in connection with any eminent domain proceedings instituted to acquire the remaining property interests needed for the Sewer Force Main Relocation Project, and further directs the Interim City Manager to institute eminent domain proceedings and use the declaration of taking procedure (including the signing, filing and recording of a declaration of taking) as to any of the remaining property interests needed that have not been acquired through negotiation, and to deposit with the court as the just compensation the amount set forth in the appraiser's determination of just compensation for the parcel.

2. That the draft Decisional Documents are approved, but may be further revised if recommended and approved by the Interim City Manager.

PASSED and ADOPTED by the Dillingham City Council June 25, 2012.

SEAL:

\_\_\_\_\_  
Alice Ruby, Mayor

ATTEST:

\_\_\_\_\_  
Janice Williams, City Clerk