



**APPROVAL OF ALTERNATE CONSTRUCTION CONTRACTING PROCEDURE,
CONSTRUCTION MANAGER / GENERAL CONTRACTOR (CM/GC), FOR
THE MAINTENANCE FACILITY UPGRADES**

POLICY ISSUE / SITUATION:

OAR 137-49-0620 and ORS 279C.335 permits the Beaverton School District Board of Directors to exempt specific projects from the competitive bidding requirements of ORS 279. Proposals from prospective CM/GC firms will include a competitive quote for their Fee for the Project. The selected CM/GC will provide the District with a Guaranteed Maximum Price (GMP) and a 100% Performance and Payment Bond for the work. Subcontract work will be competitively bid.

BACKGROUND INFORMATION:

The Maintenance Facility Project was included in the 2014 Bond to improve both the site and building infrastructure. Construction will occur in phases beginning in 2017 and completing in 2018. Because the Maintenance Facility will necessarily be continuously occupied, it is important that the phases of construction are carefully planned with the General Contractor. The use of CM/GC with regard to planning, phased constructions, staging, and general site constraints will aid in the success of this project. The time and coordination to complete this project will require a negotiated contracting process, using the CM/GC contracting method. The school district would request proposals from Construction Management / General Contractors and enter into a negotiated contract with the selected contractor. This contractor will then guarantee a maximum price for the construction rather than the District conducting a traditional bidding procedure. The advantage of this process is that it allows simultaneous design and construction. This will allow the District to procure long lead items much earlier, which will help assure that the project will be completed as required.

The School Board, acting as the Local Contract Review Board, must approve particular findings supporting the use of this construction contracting procedure, pursuant to ORS 279C.335.

RECOMMENDATION:

It is recommended that the School Board approves exemption of The Maintenance Facility Improvement Project from the competitive bidding requirement of 279C.335(1), and approves use of the proposed CM/GC contracting procedure. Board approval to award the contract will be requested after receipt of the proposals.

BE IT RESOLVED that the Beaverton School Board of Directors (i) adopts and approves the findings of Attachment A, (ii) grants a specific exemption from competitive bidding requirements of ORS 279C.335(1), and approves and directs the use of the CM/GC Construction Contract process, for and (iii) requires that the procurement be in accordance with the Attorney General Model Rules adopted under ORS 279A.065(3).

ATTACHMENT A

FINDINGS ALTERNATE CONTRACTING PROCEDURE CM/GC CONSTRUCTION CONTRACT MAINTENANCE FACILITY UPGRADES

- (a) *BSD Staff finds that this alternate contracting procedure is unlikely to encourage favoritism in awarding public improvement contracts or substantially diminish competition for public improvement contracts.*

The CM/GC will be selected through a competitive process in accordance with a Request for Proposals authorized by the Board of Directors. Pursuant to ORS 279C.360, a CM/GC solicitation will be advertised in the Daily Journal of Commerce, the Oregon Procurement Information Network, and the Beaverton School District procurement webpage in order to attract competitive proposals. The CM/GC proposals and interviews will be rated based on a predetermined list of criteria as required by ORS 279C.337 and the Attorney General's Model Contract Rules. The District will enter into a contract with the highest-ranking firm.

- (b) *BSD Staff finds that awarding a public improvement contract for this project through the CM/GC method will likely result in substantial cost savings and other substantial benefits to the District.*

In making this finding, staff have considered the type, cost and amount of the contract and, to the extent applicable to the contract, the following:

- A. **Findings related to how many persons are available to bid:** Staff finds that granting this alternate contracting procedure will not unreasonably limit the number of firms available to bid, since procurement will be through a publicly-advertised request for proposals.
- B. **Findings related to the construction budget and the projected operating costs for the completed public improvement:** Staff finds that the ability to select firms based on the firm's performance history will positively affect the project outcome as it relates to cost by providing feedback on the design development phase and participating in the construction document phase of the design process. With the CM/GC participating in these phases they will be able to offer suggestions for improvement and make recommendations that will reduce costs. With the benefit of this knowledge, the CM/GC will also be able to guarantee a maximum price the District will pay to construct the project, which may result in savings accruing to the District.
- C. **Findings related to public benefits that may result from granting the exemption:** Staff finds that the ability to select firms based on the firm's performance history will significantly affect the project outcome as it relates to schedule. It is critical that the project be completed on time due to the need for proper access to the school students and staff. We believe that utilizing the CM/GC method will reduce challenges inherent to the technical nature of this project. The additional upfront coordination with the CM/GC will result in a better product that works seamlessly with school operations.

- D. **Findings related to whether value engineering techniques may decrease the cost of the public improvement:** Staff finds that granting this alternate contracting procedure will provide the most comprehensive team evaluation of all factors that affect the cost, quality, and schedule of the project, which may decrease the ultimate cost of the improvement. The CM/GC process offers the opportunity for closer coordination between multiple vendors and suppliers of the complex systems that make up this project.
- E. **Findings related to the cost and availability of specialized expertise that is necessary for the public improvement:** Staff finds that no specialized expertise will be needed for this project.
- F. **Findings related to any likely increases in public safety:** Staff finds that the ability to select firms based on the firm's performance history will allow the District to select a contractor with a demonstrated record of safety.
- G. **Findings related to whether granting the exemption may reduce risks to the contracting agency, the state agency or the public that are related to the public improvement:** Staff finds that granting this alternate contracting procedure will reduce schedule risk to the School District, by allowing additional coordination related to the procurement of doors, hardware, and security controls.
- H. **Findings related to whether granting the exemption will affect the sources of funding for the public improvement:** Not applicable. Staff finds that granting this exemption will have no effect on funding sources for the project.
- I. **Findings related to whether granting the exemption will better enable the contracting agency to control the impact that market conditions may have on the cost of and time necessary to complete the public improvement:** With the multitude of construction market factors that exist today in Oregon (e.g. completion of other projects, environmental issues that limit construction materials, shortage of qualified craftsman, inflation, etc.), establishing the best work sequence is crucial to accurately estimating the cost and schedule implications of this project. Staff therefore finds that selecting a firm through the CM/GC process allows the District the advantage of working with a CM/GC who has knowledge of market conditions and experience in finding the best people qualified for this fast-track work, and to provide accurate estimates for subcontracts.
- J. **Findings related to whether granting the exemption will better enable the contracting agency to address the size and technical complexity of the public improvement:** Staff finds that granting this exemption will allow the School District to accept proposals only from contractors who have demonstrated considerable experience in delivering projects of similar complexity successfully. On previous phases of this project Staff has experienced significant challenges with the low-bid contractors due to the technical complexity of the scope. Working with a contractor who has demonstrated their qualifications will result in a more successful project.
- K. **Findings related to whether the public improvement involves new construction or renovates or remodels an existing structure:** This project involves renovation of existing structures and in particular their entrance doors.
- L. **Findings related to whether the public improvement will be occupied or**

unoccupied during construction: This is a project where only a small section of the buildings will be affected by the construction. All areas of the building may be occupied during construction. Staff finds that due to the added complexity of occupied construction, it is especially helpful to have a contractor who is experienced with this type of work. The work has the potential to cause great interruption to the schools if it is not executed very carefully.

M. **Findings related to whether the public improvement will require a single phase of construction work or multiple phases of construction work to address specific project conditions:** Staff finds that the project will have a single phase of construction work.

N. **Findings related to whether the contracting agency or state agency has, or has retained under contract, and will use contracting agency or state agency personnel, consultants and legal counsel that have necessary expertise and substantial experience in alternative contracting methods to assist in developing the alternative contracting method that the contracting agency or state agency will use to award the public improvement contract and to help negotiate, administer and enforce the terms of the public improvement contract:** Staff will rely on their own experience, having successfully used the CM/GC method on many other renovation projects in the current and prior bond programs. In addition, architectural, engineering, and planning consultants with experience in alternative contracting have been retained for professional services. The District also relies upon outside legal counsel, appointed by the School Board to provide construction contracting legal advice. The combined expertise and experience of such staff, consultants and professionals will oversee developing the alternative contracting method and its implementation, including negotiating, administering and enforcing the terms of the CM/GC contract.