

**PROPOSED FINDINGS**  
**PURSUANT TO ORS 279C.335 AND OAR 137-049-0610, -0620, -0630, and -0690**  
**BY THE THREE DISTRICT SCHOOL DISTRICT FLEMING MIDDLE SCHOOL SEISMIC PROJECT,**  
**FRUITDALE ELEMENTARY SCHOOL CLASSROOM ADDITION, RESTROOM RENOVATIONS**

On January 19, 2022 the Three Rivers School District (“the District”) requested an exemption from the competitive bidding requirements of ORS Chapter 279C.335(1), pursuant to ORS 279C.335(2), for a class of school construction projects, consisting of the two school construction projects identified below (the “Class”, to enable it to utilize an alternative contracting method for construction of the Projects. The specific alternative contracting method which the District wishes to utilize for the class of contracts is a Construction Manager | General Contractor (CM|GC) selection process. The District reserves the right to contract all class Projects with a single CM|GC contractor through a single solicitation, or to procure one or more CM|GCs through one or more solicitations.

The Class is described as the two construction projects at the locations identified below (each, a “Project”). The Projects in the Class share the common characteristics of being renovations and additions to existing buildings, requiring integration with existing building facilities and the need to develop scopes and schedules that avoid unnecessary disruption of school operations. The Projects included within this Class are the following:

- Fleming Middle School
- Fruitdale Elementary School
- Restroom Renovation at six schools

The description for these two Projects are as follows:

**Fleming Middle School (FMS) Seismic Rehabilitation Renovation:**

- Seismic Rehabilitation Renovation project

**Fruitdale Elementary School (FES) Addition and Renovations:**

- Four classroom addition to the existing building
- Site improvements and increased parking

**Restroom Renovation at Six Schools**

- Fleming Middle School
- Lincoln Savage Middle School
- Lorna Byrne Middle School
- Hidden Valley High School
- Illinois Valley High School
- North Valley High School

Approving exemption of this Class from the competitive bidding requirement of ORS 279C.335 will benefit the District by allowing for utilization of the CM|GC procurement process, and the resultant benefits to the District outlined in the below findings, including allowance for value engineering, cost estimating, schedule development, phasing, constructability, integration with existing facilities, safety, and consideration of staff and community input, by and with the CM|GC contractor during each of the design phases. These enhancements are likely to promote the efficient use of the public funds.

In considering the Class and the requested exemption, the Board is requested to approve the following findings:

1. The District is a School District organized and existing under the laws of the State of Oregon.
2. The Board is the local contract review board for the District.

3. Pursuant to ORS 279C.335(2), with regard to exempting the Class from competitive bidding and use of the CM|GC method:
- a. The exemption is unlikely to encourage favoritism in the awarding of public improvement contracts or substantially diminish competition for public improvement contracts.

*Justification for finding:* The District will select the CM|GC through a competitive request for proposals process that fosters competition and focuses on delivering the best value to the District with no favoritism, through an objective point-scoring system. The District will administer an openly-advertised CM|GC process in a manner that will attract competition.

"Subcontractable" work will be procured by the CM|GC selected for each Project, with the oversight of the District, through a bid process. Should the CM|GC firm choose to bid any of the subcontractable work, then bids will need to be submitted to the District or an independent third party a minimum of 2 hours prior to bid closing.

- b. Awarding public improvement contracts under the exemption for the Class will likely result in substantial cost savings and other substantial benefits to the District.

*Justifications for finding:*

- i. Public and District benefits  
The upgraded school facilities will facilitate better teaching and learning environments, providing safer and more efficient buildings. The CM|GC will help to maximize the quality and amount of construction items that can be delivered, within budget, and on schedule.
- ii. Value engineering  
The CM|GC process provides many benefits and opportunities for cost savings. During the preconstruction phase, the CM|GC will be evaluating the budget and making suggestions for cost-saving changes and value enhancements. The CM|GC will evaluate major systems and make design recommendations to the Project team about which systems are most cost-effective. Use of the CM|GC process will likely result in substantial benefit to the District by facilitating and coordinating the most efficient use of limited funds.

The CM|GC also identifies whether Project sequencing is viable and design elements can be built as drawn. All of these beneficial actions by the CM|GC will improve design, expedite construction and eliminate the potential for costly change orders. The benefits of value engineering are not available with the low bid process.

### **Considerations for Finding Under ORS 279C.335(2)(b)**

In developing finding 3(b), the type, cost and amount of the prospective contracts were taken into consideration, along with the following factors, in accordance with ORS 279C.335(2)(b):

- (A) How many persons are available to bid?

*Information considered by the District:*

The CM|GC will be selected through a competitive Request for Proposal (RFP) process. The notification of will be publicly advertised in a state-wide trade newspaper. A review committee will screen and rank proposals based on the criteria described in the request for proposal. Based upon the ranking, one or more proposers may be selected for interview. It is anticipated there are multiple qualified contractors available to propose.

- (B) The construction budget and the projected operating costs for the completed public improvement.

Information considered by the District:

The total construction budget is approximately:

- \$1,800,000 for Fleming Middle School
- \$2,000,000 for Fruitdale Elementary School
- \$2,000,000 for Restroom Renovation

Projected operating costs can be better taken into account through the CM|GC process through the contractor's earlier involvement and input in the design process.

- (C) Public benefits that may result from granting the exemption.

Information considered by the District:

Procurement of the renovated school facilities through the CM|GC process is likely to facilitate better teaching and learning environments, providing safer and more efficient buildings. CM|GC contracting will help to enhance the quality and amount of construction items that can be delivered, within budget, and on schedule.

- (D) Whether value engineering techniques may decrease the cost of the public improvement.

Information considered by the District:

During the design phase prior to material and subcontractor bidding, the CM|GC will provide value engineering and update cost estimate information. This engineering and cost estimate will assist final decision-making about the Project scope, product quality and material finish. Using a CM|GC will allow more flexibility to develop, evaluate, and implement design changes with less impact on construction cost and time. In the event fast track construction is necessary, the CM|GC process provides an appropriate means of managing fast track construction with value engineering to decrease costs and maintain a guaranteed maximum price for the construction.

Use of value engineering in the CM|GC process will likely result in substantial cost savings by reducing costly change orders through CM|GC value engineering, constructability review, scheduling, and estimating during the design process.

Use of the CM|GC process will likely result in substantial cost savings through efficiencies gained from having only one general contractor on the site, thereby reducing the need for additional job site conditions from multiple general contractors.

Use of the CM|GC process will likely result in substantial benefit to the District by facilitating and coordinating the most efficient use of limited funds.

- (E) The cost and availability of specialized expertise that is necessary for the public improvement.

Information considered by the District:

The contractor ultimately selected as CM|GC will be required in the RFP process to demonstrate experience and expertise in providing CM|GC services to public and/or private organizations. The contractor will also be required to have thorough knowledge of school construction and improvements. The CM|GC firm is hired at the beginning of the Project and its specialized expertise can assist with master planning, design considerations, administrative coordination, scheduling, budget estimating, constructability review, and value engineering.

- (F) Any likely increases in public safety.

Information considered by the District:

All work during the construction will be done in accordance with OR-OSHA safety regulations. The CM|GC selected will be required to show evidence of construction safety practices that are at the highest level of integrity. Student and staff safety is of utmost importance during construction when the facility is occupied. The CM|GC's input into construction sequencing can minimize periods of work while the facility is occupied and reduce issues related to safety.

- (G) Whether granting the exemption may reduce risks to the contracting agency, the state agency or the public that are related to the public improvement.

Information considered by the District:

Each Project includes technical and logistical complexities, the risks of which will be reduced through working with the CM|GC firm working with the District and the design team to solve specific challenges identified during the pre-construction phase. Technical complexity relates to planning and coordinating the various components of the Project for safety, schedule and budget. Each Project includes a limited budget as well as limited construction time. Construction may not interfere with student learning.

Each Project will include renovation, remodel, and addition. The CM|GC process should add efficiencies in coordinating these different elements of the work, in close proximity to one another, in over-lapping time periods, and with tight budgets, which has the benefit of reducing risks to the District.

- (H) Whether granting the exemption will affect the sources of funding for the public improvement;

Information considered by the District:

Funding for each Project is provided by various funding sources. The CM|GC method of contracting provides cost controls for limited budgets and therefore benefits the district's funding. The team approach, the schedule, the value analysis, and constructability reviews provide effective cost analysis.

- (I) 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.

Information considered by the District:

The CM|GC contracting process is a modern construction delivery method used by both public and private organizations. The CM|GC is tasked with keeping the Project team up-to-date on the latest construction techniques and products. The CM|GC will inform the Project team of current market conditions, labor and materials availability, and construction methodologies that can reduce design and construction time and costs. The Guaranteed Maximum Price under the CM|GC method can be set at an earlier time in the design process than is feasible under the traditional bid method, helping to better control the impact of market conditions.

- (J) Whether granting the exemption will better enable the contracting agency to address the size and technical complexity of the public improvement.

Information considered by the District:

Each Project must be delivered within strict technical and logistical parameters. The CM|GC firm will work with the district and the design team to solve specific challenges identified during the pre-construction phase. Technical complexity relates to planning and coordinating the various components of the Project for safety, schedule and budget. Each Project includes a limited budget as well as limited construction time. To avoid construction unnecessarily interfering with student learning, the CM|GC method allows for team input on schedule and sequencing so that majority of construction will be in phases limited to summer, winter, and spring break.

- (K) Whether the public improvement involves new construction or renovates or remodels an existing structure.

Information considered by the District:

The Projects include modernizations, remodeling, and additions to existing buildings. The Projects may be multi phased on occupied campuses.

- (L) Whether the public improvement will be occupied or unoccupied during construction.

Information considered by the District:

The Projects will be occupied during certain periods of the work. CM|GC contracting allows for early coordination with the contractor to avoid conflicts during periods of occupancy.

- (M) Whether the public improvement will require a single phase of construction work or multiple phases of construction work to address specific project conditions; **and**

Information considered by the District:

The Projects may consist of a single phase. CM|GC contracting is an effective form of procurement for projects because it allows for early contractor input on scheduling.

- (N) 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.

Information considered by the District:

THREE RIVER SCHOOL DISTRICT  
CAPITAL CONSTRUCTION PROJECT  
CM|GC ALTERNATIVE CONTRACTING METHOD  
PROPOSED FINDINGS

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The District is working with an HMK Company as the Owner's Representative has Counsel, both of which have extensive experience with CM|GC procurement, and through an RFP process will engage an architecture/engineering firm that will be vetted to have necessary expertise and substantial experience with the Construction Manager | General Contractor delivery method. The District intends to retain such additional consultants with appropriate expertise and experience as may be necessary for the Projects.