

EXHIBIT 1

FINDINGS OF FACT AND CONCLUSIONS SUPPORTING AN EXEMPTION FROM THE COMPETITIVE BIDDING REQUIREMENTS AND ALLOWING THE USE OF THE CONSTRUCTION MANAGER/GENERAL CONTRACTOR (CM/GC) ALTERNATIVE PROJECT DELIVERY METHOD FOR THE MID COUNTY OFFICE FACILITY RENOVATION PROJECT

I. BACKGROUND

A. Project Description – Mid County Office Facility Renovation Project

Facilities and Property Management (FPM) has identified the need to acquire an asset in a strategic mid-county location to fill a gap in public services. The intent is to purchase a developed site that will allow the County to consolidate four separate existing sites into a single County owned property. Consolidation into a single mid county property will increase operating efficiencies, align departmental points of service with their client base, and eliminate the risk associated with leasing the existing sites. As part of the Facilities Asset Strategic Plan (FASP), FPM is recommending that the purchase, funding, and the plans for the subsequent renovation of the Mid County Office Facility be approved by the Board of Commissioners.

The Mid County Office Facility consists of three (3) two-story buildings situated on County Tax Assessor's parcels (R331969) and (R332107) and sited at 1245 and 1415 SE 122nd Avenue in Portland, OR (referred to collectively as the "Mid County Facility"). The south parcel (R332107) is 1.28 acres and contains two buildings; hereinafter referred to as the "south building" and the "west building." The north parcel (R331969) is 1.18 acres and contains one building, referred to hereinafter as the "north building." The north building and the south building are physically connected by a pedestrian sky bridge. The facility provides the County with approximately 37,000 square feet of net rentable area. The existing and proposed use for the buildings is office commercial and is consistent with the current City of Portland CO2 zoning for the site.

The south and the west buildings were both built in 1973 and are constructed with wood framed exterior walls that are overlaid with a brick veneer; pre-manufactured wood and metal roof trusses are supported by glue laminated wood girders and steel columns. The main levels were constructed upon a concrete slab on grade. A wood and steel canopy provides cover over the concrete walkway between the buildings. The north building was built in 1979 and is of similar construction. The buildings are surrounded by site improvements that include an asphalt parking lot with 149 parking spaces, concrete walks, landscaping, and site utilities; the two parcels collectively function as one large site, and as such comprise the entire Mid County Facility.

As part of the due diligence process the County engaged a variety of consultants to conduct a Baseline Property Condition Assessment of the Facility. The assessment summarizes the condition of the property and estimates the probable costs to renovate the Mid County Facility to County standards. Based on the assessment, FPM is requesting \$4,000,000 to conduct a renovation of the Facility prior to County occupancy. The renovation would need to be completed prior to January 2016 to accommodate relocating the Department of Community Justice's (DCJ) Adult Services Division prior to the expiration of its existing lease. To accommodate this fast-track schedule, the County will require a more robust project delivery method and is seeking an exemption from the traditional design-bid-build method of delivery.

The project schedule currently anticipates the following major milestones:

Board Approves the Facility Purchase	Mar	2015
Award the A&E and CM/GC Contracts	June	2015
Complete 50% Design Development Package	June	2015
Complete 90% Design Development Package	July	2015
Negotiate a guaranteed maximum price (GMP)	July	2015
Award the General Contract for Construction	Aug.	2015
Complete Design Development Plan Package	Aug.	2015
Begin Construction	Sept.	2015
End of Phase 1 Construction	Dec.	2015
DCJ Move in Dates	Jan.	2016

B. Construction Manager/General Contractor (CM/GC) Project Delivery Method

The Construction Manager/General Contractor (CM/GC) method is a modern project delivery method used by both public and private organizations. In the CM/GC method, the Owner engages an Architectural and Engineering team (A&E) and a CM/GC contractor during the design phase to combine their design and construction expertise at the onset. This allows the CM/GC to supply early input on scheduling, pricing, phasing, and constructability to the Owner and the A&E. In the context of the CM/GC delivery method, the core project team is made up of Owner, A&E, and CM/GC; this team continues throughout the duration of the project to close-out.

The Owner's Representative will be a project manager from FPM. The A&E and the CM/GC will be procured using a County Request for Proposal (RFP) procurement process and subsequently selected on the basis of their qualifications, past experience, and/or the best-value proposition. Following the selection process a contract amount for the design portion of the project will be negotiated with the A&E, and a contract amount for pre-construction services will be negotiated with the CM/GC. At 90% of design completion, the Owner and CM/GC will negotiate a 'guaranteed maximum price' (GMP) for the construction phase of the project based on the defined scope and schedule. The CM/GC will be responsible for self-performing an agreed percentage of the work and sub-contracting out the remaining work elements.

The expected benefits of this delivery method are:

- (1) Faster time to completion; by procuring the CM/GC services in parallel with the A&E, the County will reduce the schedule by 4 months over traditional methods, resulting in lower costs.
- (2) Lower overall costs; reducing the timeline will reduce the cost of the project. Early CM/GC collaboration in the design process will typically result in lower costs and fewer change orders.
- (3) Higher overall quality; early engagement of the CM/GC generally results in a more coordinated, constructible plan set that will result in fewer Requests for Information (RFI) during the construction phase. Fewer RFI's during construction will reduce overall construction costs.
- (4) Greater flexibility to adapt to change; bringing the entire team onto the project at the outset creates a tight knit and collaborative environment that facilitates effective decision making.
- (5) Enhanced community mitigations and diversity participation will be specifically outlined in the RFP and will be a direct result of the alternative contracting method award criteria.

The CM/GC process, as an alternative to the competitive bid process, is becoming a more common approach for certain types of projects by public agencies within Oregon. The Oregon Public Contracting Coalition (PCC), a diverse group of government and non-government professionals experienced in public contracting, developed a guide for those public agencies considering the CM/GC process. Some recommendations contained in the document were incorporated into ORS Chapter 279C by the legislature. A publication called the Oregon Public Contracting Coalition Guide to CM/GC Contracting (the Guide), written by the PCC and the Construction Engineering Management Program, Department of Civil, Construction, and Environmental Engineering, at Oregon State University, February 2002, is available on-line at:

http://www.agc-oregon.org/public/resource_center/publications/CM_GC_Guide_05.pdf

The Guide suggests that the CM/GC method is most likely to benefit the Owner of projects that:

- have high financial risks,
- are technically complex,
- have schedule constraints,
- require complex phasing,
- have budget limitations,
- are greater than \$2 million.
- may realize cost savings resulting from value engineering,

The Oregon legislature enacted 2013 Oregon Laws, Chapter 522 (SB 254), which established new procedures, under ORS 279C.335, for exempting public contracts for CM/GC delivery methods from traditional bidding requirements. On July 1, 2014, the Oregon Department of Justice adopted interim rules amending the Attorney General's Model Rules in OAR Chapter 137, Division 049, to implement the new law. The findings of fact and conclusions in this Exhibit 1 have been drafted in compliance with 2013 Oregon Laws, Chapter 522, and the Model Rules in OAR Chapter 137, Division 049, as amended in 2014.

II. FINDINGS REGARDING COMPETITION

ORS 279C.335(2) requires that an agency make certain findings as a part of exempting certain public contracts or classes of public contracts from competitive bidding. ORS 279C.335(2)(a) requires an agency to find that: *"It is unlikely that such exemption will encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts."*

The County's procedures for procurement of the CM/GC contractor will encourage competition through a competitive procurement process based on qualification to perform project specific tasks under a tight time frame. The contract will require that general contractors have experience delivering projects using the CM/GC method; however, this is a qualification required for all contractors and not a barrier to entry. General contractors will be required to possess a variety of specialized skills to deliver a quality project on-time and on-budget.

The CM/GC contractor will be selected through the County's standard Request for Proposal (RFP) process that is both open and competitive. The RFP will be advertised in the Daily Journal of Commerce and will specify how a proposal should be structured and what the potential contractors should submit, which will include, but not be limited to, the following:

- Proposer Qualifications
- Proposer Experience
- Profit margin & Markup
- The Project Approach
- Sustainable Practices
- Organization & Key Personnel
- Workforce Training & Diversity

After the proposals are submitted, the evaluation process will include the following steps:

- a) Central Purchasing will check for compliance with the requirements listed in the RFP.
- b) Proposals that are deemed complete will be sent to an Evaluation Panel. The Panel will then evaluate and independently score the RFP's using a documented scoring criteria.
- c) The independent scores of each panel member will be combined into an overall score for each proposer. Should there be a clear choice for the award, the highest scorer will be invited to negotiate a contract for the pre-construction services.
- d) The County shall have the option to prepare a 'short list' of the top proposers and invite these top candidates for an oral interview with the Evaluation Panel.
- e) In the event of an oral interview, the Evaluation Panel will score the interviews, and these scores will be combined with the written proposal scores to yield a total score for each of the short-listed proposers. Based upon these final scores, the Panel will rank the proposers and provide an award recommendation. The proposer with the highest total score will be invited to negotiate a contract for the pre-construction services.
- f) Upon expiration of the mandatory protest period, the County will seek to enter into contract with the top ranked firm. If these negotiations are not successful, the County will seek to enter into contract with the next highest ranked firm. This process will continue until the County has entered into a contract with a qualified CM/GC proposer.

In conclusion, given the procurement process, County staff finds that selecting a CM/GC contractor pursuant to the exemption is unlikely to encourage favoritism in the awarding of a public contract or substantially diminish the competition for this public contract.

III. FINDINGS REGARDING SUBSTANTIAL COST SAVINGS

ORS 279C.335 (2) requires that a public agency make certain findings as part of exempting certain public contracts or classes of public contracts from competitive bidding. ORS 279C.335 (2) (b) requires an agency to find that: *"Awarding a public improvement contract under the exemption will likely result in substantial cost savings and other substantial benefits to the contracting agency or the state agency that seeks the exemption or, if the contract is for a public improvement described in ORS 279A.050 (3)(b), to the contracting agency or the public."*

ORS 279C.335(2)(b) further provides that: *"...the local contract review board shall consider the type, cost and amount of the contract and, to the extent applicable to the particular public improvement contract or class of public improvement contracts, the following:*

- (A) How many persons are available to bid;**
- (B) The construction budget and the projected operating costs for the completed public improvement;**
- (C) Public benefits that may result from granting the exemption;**
- (D) Whether value engineering techniques may decrease the cost of the public improvement;**
- (E) The cost and availability of specialized expertise that is necessary for the public improvement;**
- (F) Any likely increases in public 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;**
- (H) Whether granting the exemption will affect the sources of funding for the public improvement;**
- (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;**
- (J) Whether granting the exemption will better enable the contracting agency to address the size and technical complexity of the public improvement;**
- (K) Whether the public improvement involves new construction or renovates or remodels an existing structure;**
- (L) Whether the public improvement will be occupied or unoccupied during construction;**
- (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**
- (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.”**

The most significant cost savings from a CM/GC method will come from the ability to procure a contract for pre-construction services in the same time frame as the contract for the A&E services. This allows the project schedule to be reduced by four months from traditional contracting methods; this will reduce the existing lease costs of \$40,000 per month. On a complex project with an aggressive schedule, CM/GC offers several benefits that could lead to lower direct project costs; primarily, fewer change orders resulting from design errors or omissions. Areas of uncertainty can be identified early in the project and managed proactively. These factors combine to suggest that CM/GC will yield a lower total price at completion than the other methods on a complex, schedule-constrained project like the Mid County Facility.

There are other substantial benefits to the County beyond direct costs. In the Mid County Facility renovation project, the CM/GC will be engaged prior to the design being completed. The CM/GC will provide value added input into the entire design process. At 90% design completion a Guaranteed Maximum Price (GMP) for the construction package will be negotiated. A price for unforeseen contingencies will be estimated in the negotiations, and, if the project proceeds as expected, all contingency money will be returned to the County. In a traditional contract these monies would go to the contractor. A traditional contracting process tends to be adversarial and may misallocate both risk and reward; in CM/GC, all team members share in the risks and rewards that result from the highly collaborative CM/GC process.

It is impossible to predict exactly how much lower the cost will be by using CM/GC; however, there is a significant amount of data that associates CM/GC with lower costs. For example, the Oregon Department of Corrections has significant experience with the CM/GC process and has identified achieved savings of 5% of the construction costs. On a project of this size (\$4 million) this would imply a direct cost savings of \$200,000 over traditional project delivery methods.

The County finds that awarding of this contract with its unique challenges and circumstances pursuant to the exemption will result in substantial cost savings.

The following section presents County staff findings relative to each of the factors required to be addressed by ORS 279C.335(2)(b) (A) through (N), with captions edited for space.

A. How many persons are available to bid

To understand how many firms were available locally to do this work, the County consulted with a representative of the Oregon Columbia Chapter of the Associated General Contractors (AGC). Based on this research the staff believes that there are approximately ten (10) firms in the local area who would be qualified to do the project, and it is reasonable to anticipate between four to six of those firms would bid on the project. Nationally there are hundreds of firms that are qualified to do the project, but the relatively small value of the contract may preclude them from bidding. The number of bidders should allow for a very competitively priced CM/GC proposal.

B. Construction Budget and Projected Operating Costs

The project is anticipated to be constrained to \$4 million for both design and construction costs. The project will be funded entirely from low interest loans drawn from the County's internal sources. The renovation will include refurbishment of most of the facility's major physical systems (roofing and mechanical) and should result in lower than average operational costs. The cost savings from consolidating existing DCJ facilities and eliminating the cost of existing leases will also result in a net savings to the County over the long term. Operating costs for the specific portions of the facility will be included in the annual budget for Multnomah County's Department of Justice or other affected departments as dictated by their occupancy.

The CM/GC process puts Multnomah County in the best position to deliver the project on budget. The Construction Manager will provide added value on the front end through constructability, cost estimating, value engineering, and review of design options throughout the design development process; at final design, the construction pricing will then have been reviewed from a real cost basis. The risk from unforeseen circumstances during construction is collaboratively mitigated by the owner and the contractor and managed through a reserve "contingency account." A CM/GC contract positions the County to deliver the project on budget.

C. Public Benefits

The Multnomah County Mid County Facility is expected to provide long term public benefit by providing a centralized facility in a convenient geographical location. The short term public benefits from use of CM/GC contracting include the ability to collaboratively include the public input into the project criteria and ability to reduce impacts during construction. A CM/GC method offers the advantage of allowing all stakeholders to be involved throughout the project lifecycle. All parties can collaborate; whereas, in a traditional approach, public input is generally only solicited at the onset of the project or when there is a specific problem. CM/GC allows the opportunity for the public to be part of the team rather than only providing isolated input.

One of the benefits that CM/GC affords the public is the ability to compress the design and construction schedule. There are cost benefits that come directly from reducing the schedule, but equally important to the public is the reduction in the length of time it is impacted by the construction activities. The ability to authorize construction work in packages that are subsets

of the overall project allows significant scheduling flexibility and creates opportunity to complete the project in the shortest duration. The CM/GC process will benefit the public by placing the County in the best position to deliver required features, mitigate community impacts, optimize diverse participation, expedite construction, and, at the same time, improve quality.

D. Value Engineering

In the CM/GC method, the relationship of the owner, the CM/GC, and the designer fosters a team approach to value engineering. The design is developed with the assistance of the contractor, which allows for value to be engineered into the design. Under the traditional design/bid/build method, value engineering typically occurs just once during the design phase. In a CM/GC method value engineering is a continuous part of the process. In a traditional design-bid-build process, savings from value engineering measures suggested by the construction contractor are divided between Multnomah County and the contractor; however, in a CM/GC process those savings are passed on entirely to the County.

E. The Cost and Availability of Specialized Expertise Necessary for the Project

The renovation work that physically needs to occur at the Mid County Facility does not require specialized construction expertise. Most general contractors would be capable of performing the physical renovation; however, the required, specialized expertise is the ability of a CM/GC to reliably execute a project that will meet the County's specific program criteria. The criteria will emphasize the project approach over specific construction expertise. A potential CM/GC would need specialized expertise in highly collaborative environments that have leveraged the CM/GC methodology, design-build, or Integrated Project Delivery (IPD) on construction projects. Placing this requirement on prospective bidders will limit the field but will not prohibitively affect the cost of the project or the availability of specialized expertise. It is likely that CM/GC will yield lower costs and a higher likelihood of procuring the most capable skill set for the project.

F. Public Safety

Public safety is one of the foremost criteria for the Mid County Facility renovation project. The contractor's safety record and approach to safety will be one of the screening criteria for potential CM/GC contractors. A CM/GC project delivery method will provide the contractor with upfront knowledge on project constraints and allow it to cooperatively build in public safety features using input from the owner, designer, and the general public as applicable. A CM/GC method cannot guarantee a safer project, but it will provide enhanced opportunities to optimize public safety throughout the entire lifecycle of the renovated facility.

G. Risk Reduction to County

One of the biggest risks to the County when using a traditional design-bid-build approach is the risk associated with change; largely, change orders. Change orders result from needing to revise the contract documents to accommodate an untimely input. In a CM/GC method this risk associated with change, and its root cause, untimely input, is reduced to a minimum through the receipt of timely inputs at the front end of project design. Risk that does arise during construction is allocated equitably between the owner and the contractor. A pre-agreed upon contingency fund will be used to manage the unforeseen risks during construction.

H. Impact on Project Funding Sources

Using a CM/GC project delivery method will not impact the funding of the project.

I. Market Conditions

The project time frames are short enough that the project will not likely be affected by market conditions; notwithstanding, a CM/GC project should represent the shortest project delivery time to market and thereby limit risks from typical market forces (i.e. inflation, etc.).

J. Technical Complexity

There is very little technical complexity associated with a renovation of an existing office building. Owner-Designer-Builder interaction is high and provides opportunity to resolve any technical issues early in the process. The largest “technical complexity” for the County will be facilitating and maintaining the level of communication required for success in a fast track CM/GC project. The method, specifically the need for robust decision making, may not lend itself to traditional bureaucratic hierarchies and long chains of command.

K. Improvement, replacement or renovation?

The proposal is to renovate the existing Mid County Facility; however, replacement of some individual building system components may also be recommended (e.g. roofing, HVAC units, etc.).

L. Occupied or unoccupied during construction?

The proposal is to conduct the renovation to spaces that are unoccupied. It may be determined to be cost efficient to undergo replacement of building components on the exterior of buildings that are occupied (e.g. roofs, parking lots, landscaping, etc.). The County will attempt to minimize the disruption to occupants whenever possible.

M. Is the Construction Phased?

The proposal is to phase the construction by building and in small work packages. Phase 1 would likely include the unoccupied North Building and all exterior work. The short lead time for completing this critical first phase is the primary reason for utilizing a CM/GC method. Phase 2 will directly follow the first phase and would include the West Building (in 2016). Phase 3 would include work to the unoccupied interior of the South Building and will commence when the current tenant vacates (estimated 2018). Exact phasing will be determined upon award.

N. Project Staff Qualifications

The County has successfully completed the East County Courthouse and is constructing the Sellwood Bridge Replacement project using CM/GC. The critical County departments involved in the Mid County Facility renovation are Facilities and Property Management Division, Central Purchasing, and the County Attorney. FPM Project Manager, Brian Ballerini; Finance Manager, Brian Smith; and Asst. County Attorney, Ken Elliott, are all part of the Mid County team and possess a wealth of experience in a variety of alternative contracting methods (including CM/GC). The County staff is well qualified to prepare and issue the A&E and CM/GC RFP's, procure the services of the design team, negotiate the construction contract, and self-perform the role of the owner's representative in administering the design and construction contracts.

IV. Conclusion

In accordance with ORS 279C Multnomah County finds that:

Competition will not be diminished, specifically, by selecting a CM/GC contractor pursuant to the exemption it is unlikely to encourage favoritism in the awarding of a public contract or substantially diminish competition for this particular public contract.

A quantifiable cost savings will be realized. Based on the findings stated in the beginning of Section III, and for Items A-N, the County is confident that awarding this contract will result in substantial cost savings and other benefits to the County.

County Staff recommends that the CM/GC delivery method be implemented for the Mid County Facility renovation. A CM/GC project delivery method puts Multnomah County in the best position to meet the aggressive schedule, deliver the best project at least possible cost, achieve superior quality, and provide the best value for the community.