

## RESOLUTION NO. 14-13

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### **A RESOLUTION ADOPTING FINDINGS IN SUPPORT OF ALTERNATIVE CONTRACTING METHOD FOR THE RENOVATION AND EXPANSION OF THE OREGON CITY LIBRARY PROJECT AT THE HISTORIC CARNEGIE LIBRARY**

**WHEREAS**, the City of Oregon City has provided library services to the citizens of Oregon City for over 100 years and, for most of those years, the library was located in the historic Carnegie Library; and

**WHEREAS**, after the Oregon City Library lost its lease at Danielson's, the Oregon City Library moved back to the historic Carnegie Library as an interim measure in 2010, where it has been operating ever since with reduced collections and reduced space, and

**WHEREAS**, in 2010, the City Commission tasked the Library Board to recommend a new library site and the Library Board began a systematic search for either bare land or an existing building that could be adapted to library use. Extensive property searches and studies of multiple sites were conducted, including a feasibility study of expanding the existing Carnegie Library building; and

**WHEREAS**, in June 2013, the Library Board recommended, and City Commission agreed, that the Carnegie Library building site best met all base requirements and was within the cost constraints identified by the City's Finance Department; and

**WHEREAS**, The OCPL renovation and expansion project includes renovation of approximately 5,000 SF of existing space plus an addition of approximately 13,000-15,000 SF for an estimated total usable area of 18,000 - 20,000 SF; and

**WHEREAS**, the renovation and expansion of the historic Carnegie Library presents several technical challenges, including preservation of the historic structure, while incorporating it into the expansion, as well as potentially allowing the library to continue to operate while it undergoes a significant expansion and renovation, and

**WHEREAS**, an alternative contracting method, known as the Construction Manager/General Contractor" or "CM/GC" allows public entities to accommodate the various technical challenges in a more flexible and cost effective approach than the normal competitive bidding process; and

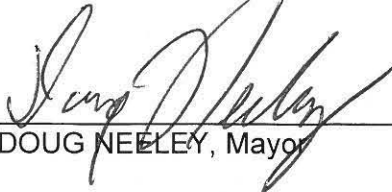
**WHEREAS**, as discussed in the attached findings, the CM/GC process would result in significant cost savings to the City and not diminish competition or encourage favoritism in awarding public improvement contracts,

### **NOW THEREFORE, THE CITY OF OREGON CITY RESOLVES AS FOLLOWS:**

Section 1. The City Commission adopts the findings attached hereto as Exhibit A, explaining why it is appropriate for the City to use the Construction Manager/General Contractor ("CM/GC") for the renovation and expansion of the Oregon City Library at the historic Carnegie Library.

Section 2. Based on the findings adopted in section 1 of this resolution, the Oregon City Commission hereby exempts from the requirements for competitive bidding the project to renovate and expand the Oregon City Library at the historic Carnegie Library.

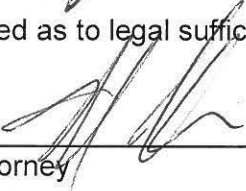
Approved and adopted at a regular meeting of the City Commission held on the 4th day of June 2014.

  
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DOUG NEELEY, Mayor

Attested to this 4th day of June 2014:

Approved as to legal sufficiency:

  
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Nancy Ide, City Recorder

  
\_\_\_\_\_  
City Attorney

## **Exhibit A to Resolution 14-13**

# **FINDINGS IN SUPPORT OF ALTERNATIVE CONTRACTING METHOD FOR THE RENOVATION AND EXPANSION OF THE OREGON CITY LIBRARY PROJECT AT THE HISTORIC CARNEGIE LIBRARY**

### **Introduction.**

Use of Alternative Contracting methods, such as CM/GC (Construction Manager/General Contractor), is made possible under ORS Chapter 279C, which permits certain contracts or classes of contracts to be exempt from competitive public bidding under strict procedural safeguards. Like other alternative contracting methods, CM/GC has significantly different legal requirements than a typical design-bid-build project delivery method.

Pursuant to ORS 279C.335015, a local contract review board may exempt specific contracts from traditional, competitive bidding by showing that an alternative contracting process is unlikely to encourage favoritism or diminish competition and will result in cost savings to the public agency. The Oregon Attorney General's Model Public Contract Rules provide for public notice and opportunity for the public to comment on draft findings in favor of an exemption before their final adoption.

ORS 279C.330 provides that: "findings" means the justification for a contradicting agency conclusion that includes, but is not limited to, information regarding:

- Operational, budget and financial data;
- Public benefits;
- Value engineering;
- Specialized expertise required;
- Public safety;
- Market conditions;
- Technical complexity; and
- Funding sources. [2003 c.794 §102]

### **Findings**

#### **Operational, Budget, and Financial Data**

The renovated and expanded Oregon City Library building will serve as the City's main library. The Carnegie Library currently is approximately 5,000 square feet and the project is anticipated to add approximately 13,000 – 15,000 additional square feet. The projected total cost for the project is \$10.3 million dollars. The project will include the renovation of an existing, historic

library structure and add on a significant new addition. The integration of the old and the new will be a large challenge for this project.

CM/GC provides opportunities for cost saving in a variety of ways. The inherent flexibility and openness of the process allows the City to more easily make appropriate changes as necessary to meet the project budget. The integration of the existing Carnegie building will present a large challenge.

The Guaranteed Maximum Price ("GMP") includes the expected cost to construct the project, the CM/GC firm's fee, and a contingency amount that the CM/GC believes should be available to cover changes to the proposed scope. Any increase in cost due to subcontractor bids higher than estimated, or added cost of scope items included in the contract documents but left out of the CM/GC's estimate, must be absorbed within the GMP. The CM/GC has no incentive to identify change orders that require additional funds and an overhead premium. All costs must be held within the GMP.

Additionally, if the City requests a major scope change that increases the GMP, the CM/GC firm receives only reimbursement for the cost of the change plus its stated fee percentage, typically 3-4%, far less than the approximately 15% which a general contractor would charge on a traditional contract.

### **Public Benefit**

The Project is needed to accommodate library services over the next 50+ years. There are numerous deficiencies with the current space that increasingly hamper our efforts to provide quality library services to the residents of Oregon City. The capacity of the existing facility has clearly been exceeded, and the library is not currently accessible to all the members of our community. The Project will provide greatly enhanced shelf space, public seating, public meeting and performance spaces, public computer workspaces, and sufficient storage and staff workspaces in a building that is ADA accessible and energy efficient.

### **Value Engineering**

The CM/GC process provides many benefits and opportunities for cost savings. System options and real-time cost estimates provided by the CM/GC throughout the constructability reviews will aid the Project and allows the City to make informed cost-benefit tradeoff. 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 both in to purchase and install and for long term maintenance and operations.

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.

## **Specialized Expertise Required**

The features and components of the library are neither repetitive nor generally available for off-the-shelf purchase as would be the case in common office or general use buildings. The contractor ultimately selected as CM/GC will demonstrate experience and expertise in providing CM/GC services to public and/or private organizations, and will be well qualified in the area of sustainable and energy efficient construction methodologies. The contractor will also have expertise in working with historic buildings.

The CM/GC selection process is based on qualifications, with price as factor. The fee is, however, less important than the overall qualifications and specialized expertise of the selected CM/GC. The City will benefit by acquiring a CM/GC which has established experience and specialized expertise to manage this project. A low bid process does not provide an opportunity to obtain the most qualified contractor with the specialized expertise needed for the Project.

## **Public Safety**

The Project will provide for safe public access and full compliance with ADA requirements. All work during the construction will be done in accordance with OR-OSHA safety regulations. The CM/GC selected will be highly qualified and capable and show evidence of construction safety practices that are at the highest level of integrity. The CM/GC's input into work and trade sequencing, and construction methodologies can reduce issues related to safety and provides for close controls and related risk reductions on the site.

The CM/GC method of delivery is a team approach and provides for a high level of responsibility and visible adherence to public safety. The contractor's performance on prior projects in satisfying these safety needs can be determined as part of the City's contractor selection process; this determination is not available under the low bid process.

## **Market Conditions**

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 CM/GC process allows "fast track" construction to start while detailing structures, interiors, and systems at the same time as awarding site work, foundations, and long-lead items. Timing the market for the various aspects of construction can result in cost savings and ultimately keeps the Project Team on a schedule. These fast-track benefits are not available under the low bid process.

## **Technical Complexity**

The Project has significant technical complexities which will be best addressed by a full team approach, with the CM/GC firm working with the City and the Architect to solve specific challenges identified during the pre-construction phase.

The project is technically complex due to its integration with the historic Carnegie building.

Expertise in energy efficient building practices and sustainable materials is also an integral part of the Project and will determine the City's ability to successfully acquire energy efficiency financial incentives. The ability to coordinate and manage this Project, while working with the City and major stakeholders, is highly complex in nature. This complexity is especially challenging to an inexperienced firm.

This Project also requires technical expertise and experience in commercial construction involving public entities. The CM/GC process enables the City to competitively select a prime contractor who has the necessary competence to deal with the technical complexities of this Project and can provide quality workmanship, dependable performance, fair and reasonable pricing and efficient management as Project Team member. Under a low bid process the technical competence of the contractor is difficult to evaluate.

### **Funding Sources**

Funding for this Project will come from the Clackamas County Library District and from bonds issued by the City. As a public entity, the City needs budget predictability. The CM/GC process, with its negotiated GMP will provide the necessary predictability. Additionally, there is a high expectation from both the individual entities and donors that construction will be built and available for public use in the near future.

The CM/GC method of contracting provides the greatest cost controls for limited budgets and therefore benefits the City. The team approach, the schedule, the value analysis, and constructability reviews provides the ultimate in effective cost analysis. It is critical, and also consistent with the spirit of collaboration encouraged throughout the process that everyone on the Project Team works towards a budget of which they can take ownership.

### **Competition and Cost Savings**

#### **Unlikely to Encourage Favoritism or Diminish Competition**

It is unlikely that the process of selecting a CM/GC firm will encourage favoritism in the awarding of the public contract or substantially diminish competition for the public contract. Competition will not diminish because the CM/GC contract will be awarded based on a competitive process and the CM/GC will use a competitive bidding process to select their subcontractors which is not required under a low bid process. The City has not previously used the Cm/GC process, nor does it anticipate using such a process in the future. In short, it is unlikely to encourage favoritism or diminish competition in the future.

#### **Cost Savings**

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. Substantial cost savings are anticipated from the Project



Team approach that is utilized in the CM/GC method of delivery because decision-making is based on cost effective and informed solutions. Progress reviews are frequent and diligent, this resulting in fewer design corrections and change orders during construction. Additionally, the use of value engineering through cooperation among the architect, engineer, contractor and City is essential to the Project delivery on time and within budget. CM/GC value engineering will reduce bid addenda, contract change orders and progress delays to help meet the tight time schedule for the Project. These savings are not realized under a low bid process.

## **Summary**

After careful consideration, the Oregon City Commissioner has found the Alternative Contracting Method CM/GC more appropriate than a traditional design-bid-build process to meet the overall project objectives for the Library Project.

The Project is technically complex due to its integration with the historic Carnegie building and the special nature of a public library. Although the site is a difficult one, it is nevertheless the best location in town for the library. The Project has involved substantial design effort and community involvement. The Project will be highly visible in the community and construction tours are anticipated. All these challenges will require a level of management and flexibility above that ordinarily available with traditional competitive (low-bid) public contracting. In addition, the Project is located in Oregon City, which is in the greater Portland metropolitan region. There are several firms with the experience and expertise in this type of work, so it is anticipated that there will be likely to bid on the project. The CM/GC process offers the best opportunity for successfully managing a large, complex construction on a budget and on time.