

## RESOLUTION NO. 19-19

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### A RESOLUTION ADOPTING FINDINGS IN SUPPORT OF ALTERNATIVE CONTRACTING METHOD FOR THE RENOVATION OF THE OREGON CITY OPERATIONS COMPLEX

**WHEREAS**, the Oregon City Public Works Department has planned and budgeted for a new Oregon City Operations Complex since 2004. The initial plans focused on redeveloping the existing Center Street Operations Center due to a lack of suitably zoned sites within the City; and

**WHEREAS**, the Department's staff are currently located at various facilities and the Center Street Operations Center does not provide adequate space for future growth; and

**WHEREAS**, in June 2018, the City identified and acquired property to be used for development of a new Oregon City Operations Complex. The site is approximately 4.79 acres zoned for industrial use and located at 13895 Fir Street. The site has an existing 59,564 square foot warehouse and 16,015 square feet of office space; and

**WHEREAS**, the current structures at the new site will require extensive renovation to be suitable for municipal use and to meet appropriate seismic standards; and

**WHEREAS**, the anticipated budget for this project is \$11.4 million; 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.

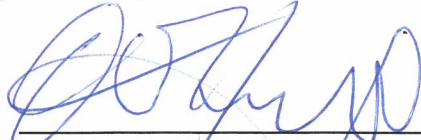
### NOW, THEREFORE, OREGON CITY RESOLVES AS FOLLOWS

**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") method for the construction of the new Oregon City Operations Complex.

**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 construct the new Oregon City Operations Complex.

**Section 3.** This resolution shall take effect immediately upon its adoption by the City Commission.

Approved and adopted at a regular meeting of the City Commission held on the 19th day of June 2019.



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DAN HOLLADAY, Mayor

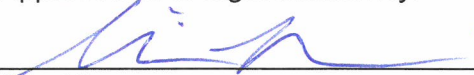
Attested to this 19<sup>th</sup> day of June 2019:



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Katie Riggs, City Recorder

Approved as to legal sufficiency:



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City Attorney

## **Exhibit A to Resolution 19-19**

# **FINDINGS IN SUPPORT OF ALTERNATIVE CONTRACTING METHOD FOR THE CONSTRUCTION OF THE OREGON CITY PUBLIC WORKS OPERATIONS COMPLEX**

### **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.

### **Findings**

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

The conceptual program for the Public Works Operations Complex calls for redevelopment of the Fir Street property to include a new office building designed and built for municipal use, as well as a renovation of the existing warehouse and parking areas. The first task for the project team will be to validate and refine the project program based on the Department's specific needs and available funding. The total budget for the project is \$11.4 million.

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 changes, as necessary, to meet the project budget. The increasing costs of construction materials and labor availability 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 coming back 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 collocate Public Works and Parks Maintenance staff on one site and accommodate operations over the next 50+ years. Numerous deficiencies with the current complex increasingly hamper our efforts to provide quality public services to the residents of Oregon City. The Project will provide greatly enhanced office spaces, storage for operations equipment and materials, and additional space for fleet.

### **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 to purchase and install as well as maintain and operate over the long term.

The CM/GC also identifies whether Project sequencing is viable and design elements can be built as drawn. All of these actions by the CM/GC will improve design, expedite construction and reduce 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 Public Works Operations Complex project are neither repetitive nor common. The need to identify a way to renovate the existing warehouse space, reconfigure site layouts and construct a new office-building specific to the Department's needs will require an experienced and innovative CM/GC. 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 CM/GC selection process is based on qualifications, with price as factor. In this qualifications based selection, the fee is 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, as well as construction methodologies can reduce issues related to safety and provide close controls to reduce risk 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.

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. Under a low bid process, the technical competence of the contractor is difficult to evaluate.

### **Funding Sources**

Funding for this Project is set at \$11.4 million. As a public entity, the City needs budget predictability. The CM/GC process, with its negotiated GMP will provide the necessary predictability.

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

### **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 value 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, thus 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 Commission 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 Public Works Operations Complex. The CM/GC process offers the City the best opportunity for successfully managing this large, complex project on time and within the budget.