



**EVALUATION OF PUBLIC IMPROVEMENT UTILIZING
AN ALTERNATIVE CONTRACTING METHOD**

North County Campus Remodels

Issued: April 21, 2025

1. Introduction

ORS 279C.355 requires an evaluation when an agency does not use the competitive bidding process for a public improvement contract in excess of \$100,000. In this particular case, an evaluation of the public improvement shall be prepared and delivered to the Board of County Commissioners, which acts as Deschutes County's Contract Review Board. The North County Campus Remodels did not use the competitive bidding process and was completed under a Construction Manager/General Contractor (CM/GC) alternative delivery method.

As required, the purpose of these evaluations is to determine whether it was in the County's best interest to use an alternative contracting method in the completion of the project. The evaluation consists of the following:

1. Project background and scope of work completed using the alternative CM/GC contract method;
2. Financial information for the project consisting of cost estimates, the CM/GC's Guaranteed Maximum Price (GMP), changes to the contract, and the actual costs of the project.
3. A summary narrative description of successes and failures during the design and construction of the project.
4. An objective summary assessment of the use of alternative construction delivery methods as compared to the Findings required by ORS 279C.335(2) (b).
5. A summary review showing that an alternative contracting process is unlikely to encourage favoritism or diminish competition, that the process resulted in substantial cost savings to the public agency as well as other certain information.
6. A copy of the project's Findings is attached in Appendix A.

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3. Oregon Revised Statute Exemptions to Competitive Bidding and Requirements for Evaluation

ORS 279C.335 Competitive Bidding Requirement; Exceptions; Exemptions

(2) Subject to subsection (4)(b) and (c) of this section, a local contract review board may exempt a public improvement contract or a class of public improvement contracts from the competitive bidding requirement of subsection (1) of this section after the local contract review board approves the following findings that the contracting agency submits or, if a state agency is not the contracting agency, that the state agency that is seeking the exemption submits:

- (a) The exemption is unlikely to encourage favoritism in awarding public improvement contracts or substantially diminish competition for public improvement contracts.*
- (b) 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 to the contracting agency or the public. In approving a finding under this paragraph, 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:*
 - *Operational, budget and financial data;*
 - *Public benefits;*
 - *Value engineering;*
 - *Specialized expertise required;*
 - *Public safety;*
 - *Market conditions;*
 - *Technical complexity; and*
 - *Funding sources.*

ORS 279C.355 Evaluation of Public Improvement Projects not Contracted by Competitive Bidding.

(1) Upon completion of and final payment for any public improvement contract, or class of public improvement contracts, in excess of \$100,000 for which the contracting agency did not use the competitive bidding process, the contracting agency shall prepare and deliver to the Director of the Oregon Department of Administrative Services, the local contract review board or, for public improvement contracts described in ORS 279A.050 (3)(b), the Director of Transportation an evaluation of the public improvement contract or the class of public improvement contracts.

(2) The evaluation must include but is not limited to the following matters:

- (a) The actual project cost as compared with original project estimates;*
- (b) The amount of any guaranteed maximum price;*
- (c) The number of project change orders issued by the contracting agency;*
- (d) A narrative description of successes and failures during the design, engineering and construction of the project; and*
- (e) An objective assessment of the use of the alternative contracting process as compared to the findings required by ORS 279C.335.*

4. Project Background

Architect: Pinnacle Architecture

CM/GC: Sunwest Builders

Programming Strategy:

The objective of this project was to provide facilities in Redmond for the Deschutes County Health Services, Clerk’s Office, Medical Examiner, and Veteran’s Services departments and 9-1-1 Service District. Existing facilities were not sufficient to meet the client demand for services and future growth of the Behavioral Health, Public Health, and Women, Infants and Children divisions within Health Services. Additionally, the new facilities would provide a Redmond location for services offered by the other departments. The Board approved the acquisition and remodel of two existing buildings in Redmond located on the same site. The 244 Kingwood building is 11,978 SF and provides additional space for Behavioral Health. The 236 Kingwood building is 9,461 SF and provides additional space for Public Health and Women, Infant, and Children, and several other County departments.

Construction:

Based on the Findings of Fact included in Appendix A, the County contracted with Sunwest Builders to complete the remodel projects. The contract exemption allowed Sunwest Builders as the CM/GC to be actively involved in design and constructability issues and to have a better understanding of the financial requirements of the project before construction began. It also allowed the CM/GC to mitigate challenges in the construction market.

5. Financial Information

279C.355 Evaluation of Public Improvement Projects not Contracted by Competitive Bidding.

(2) The evaluation must include but is not limited to the following matters:

(a) The actual project cost as compared with original project estimates;

Original project estimates and actual project costs are listed in the table below:

Description	Initial Estimates	Initial Contract	Actual Project Cost
244 Kingwood Remodel and Site Improvements	\$3,284,273		
236 Kingwood Remodel	\$2,775,096		
Preconstruction Services		\$21,000	
244 Kingwood Remodel and Site Improvements Guaranteed Maximum Price (GMP)		\$2,966,855	
236 Kingwood Remodel Guaranteed Maximum Price (GMP)		\$2,619,271	
244 Kingwood Remodel and Site Improvements Final GMP Cost			\$3,644,913
236 Kingwood Remodel Final GMP Cost			\$2,684,659
TOTALS	\$6,059,369	\$5,607,126	**\$6,350,572

** The original estimates included remodel of the two existing buildings and site improvements. Initial estimates and the GMPs did not include the owner-directed change orders that authorized an additional \$743,446 of costs, resulting in a higher Final GMP Cost. Those change orders are listed

(b) The amount of any guaranteed maximum price

The initial GMP was set at \$5,607,126 including Preconstruction Services.

(c) The number of project change orders issued by the contracting agency;

There were nine (9) contract amendments for the 244 Kingwood Remodel and Site Improvements amounting to \$678,058, or 22.8% of the total Guaranteed Maximum Price (GMP). There were five (5) contract amendments for the 236 Kingwood Remodel amounting to \$65,388, or 2.5% of the total Guaranteed Maximum Price (GMP). The changes were attributed to Owner requests for additional scope of work beyond the scope included in the GMP.

Summaries of the GMP, amendment costs and explanations of the amendments follows:

Scope of Work	Initial Amount	Amendment Costs	Final GMP Costs
Preconstruction Services	\$21,000	\$0	\$21,000
244 Kingwood Remodel and Site Improvements			
Guaranteed Maximum Price (GMP) – 244 Kingwood Remodel and Site Improvements	\$2,966,855		
Change Order Request 1 – Authorized owner-directed change to add a remodel for The Drop in the 1,874 SF suite previously occupied by a tenant. This scope was not originally in the project.		\$498,996	
Change Order Request 2 - Authorized owner-directed changes for additional access control to the Mosaic Medical space at tenant's request and expense		\$11,386 (1)	
Change Order Request 3 - Authorized owner-directed changes for two (2) additional new windows		\$5,932	
Change Order Request 5 – Authorized owner-directed changes for casework and electrical revisions to the Mosaic Medical space at tenant's request and expense		\$4,919 (1)	
Change Order Request 6 – Authorized owner-directed changes for revisions to the public reception space with cost-sharing by tenant		\$35,384	
Change Order Request 7 – Authorized owner-directed changes to add scope for construction of the radio tower enclosure and foundations at the 9-1-1 Service District's expense		\$109,761 (2)	
Change Order Request 8 – Cost reconciliation		\$0	

Change Order Request 9 – Authorized owner-directed changes to replace an exterior door and add access control to the door at the Drop space		\$8,079	
Change Order Request 10 – Authorized owner-directed changes to add scope for construction of additional concrete slabs within the radio tower enclosure at the expense of the 9-1-1 Service District		\$3,601 (2)	
244 Kingwood Sub-Totals	\$2,966,855	\$678,058	\$3,644,913
236 Kingwood Remodel			
Amendment 1 – 236 Kingwood Remodel GMP	\$2,619,271		
Change Order Request 2 - Authorized owner-directed changes to add scope for a pre-action fire sprinkler system at the expense of the 9-1-1 Service District's		\$24,501 (2)	
Change Order Request 3 – Authorized owner-directed changes for revisions to the public reception space		\$20,829	
Change Order Request 5 – Cost reconciliation		\$0	
Change Order Request 6 – Authorized owner-directed changes for HVAC improvements to provide an isolation exam room		\$14,093	
Change Order Request 7 – Authorized owner-directed changes to add electrical, data, and security cameras at the expense of the 9-1-1 Service District		\$5,965 (2)	
236 Kingwood Sub-Totals	\$2,619,271	\$65,388	\$2,684,659
PROJECT TOTALS			
	\$5,607,126	\$743,446	\$6,350,572
(1) Total amendment costs incurred by Mosaic Medical = \$16,305			
(2) Total amendment costs incurred by 9-1-1 Service District = \$143,828			

6. Successes and Failures

6.1 Successes

There were numerous project successes to report, including:

- (a) The CM/GC selection process enabled Deschutes County to select the most qualified firms based on factors and criteria specific to the project.
- (b) Selecting a CM/GC enabled the County to capitalize on the firms' strengths, experience and capacity to bring the projects to a successful completion.
- (c) The CM/GC contributed significantly to the project with their expertise in budget reconciliation, deep understanding of the project requirements, and constructability issues before construction starting.
- (d) Through value engineering and competitive sub-contractor bidding, the initial GMP contract was approximately \$452,000 less than initial estimates.
- (e) The CM/GC successfully mitigated challenges within the construction market that existed in Oregon related to supply chain and lead time issues, construction labor shortages, and significant competition with other projects.

6.2 Failures

The design of the reception windows led to security concerns and a lack of functionality for staff workstations in the public reception spaces in 244 and 236 Kingwood. To address those security concerns and to better accommodate workstation layouts, the reception windows were redesigned and subsequently demolished and reconstructed according to the new design. This design oversight and resulting remodel of the reception windows resulted in change orders for both 244 and 236 Kingwood.

Failure to include the isolation exam room's exhaust fan and the pre-action fire sprinkler system into 236 Kingwood's construction documents resulted in change orders and an increase of the Final GMP.

7. Assessment of the Use of the Alternative Contracting Method as Compared to the Findings

The information in this section is provided in compliance with ORS 279C.355(2) (e):

279C.355 Evaluation of public improvement projects not contracted by competitive bidding.

(2) The evaluation must include but is not limited to the following matters:

(e) An objective assessment of the use of the alternative contracting process as compared to the findings required by ORS 279C.335.

279C.335 Competitive bidding; exceptions; exemptions.

(2) Subject to subsection (4)(b) and (c) of this section, a local contract review board may exempt a public improvement contract or a class of public improvement contracts from the competitive bidding requirement of subsection (1) of this section after the local contract review board approves the following findings that the contracting agency submits or, if a state agency is not the contracting agency, that the state agency that is seeking the exemption submits:

(a) The exemption is unlikely to encourage favoritism in awarding public improvement contracts or substantially diminish competition for public improvement contracts.

Assessment: Conforming with the selection process outlined in the Findings of Fact (Appendix A), the CM/GC was selected through a competitive process in accordance with a qualifications-based Request for Proposals authorized by the Board of Commissioners. Pursuant to ORS 279C.360, a CM/GC solicitation was advertised in the Daily Journal of Commerce in addition to The Bulletin in order to maximize exposure. The CM/GC proposals and interviews were rated based on a predetermined list of criteria as required by ORS 279C.337 and the Attorney General's Model Contract Rules. The County entered into contract negotiations with the highest-ranking firm, Sunwest Builders.

(b) 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 to the contracting agency or the public. In approving a finding under this paragraph, 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:

Assessment: The CM/GC participated in the design phase of the work and was thereby able to obtain a complete understanding of the County's needs, the architect's design intent, the scope of the project, and the operational needs of Health Services stakeholders. This alleviated some of the financial risk to the County and the reduced risk resulted in cost savings.

(A) How many persons are available to bid;

Assessment: There were several contractors within Central Oregon are able and qualified to bid this type of project. However, the climate that was present during bidding within the Oregon & Washington construction industry created a backlog of work in such an overloaded condition that it was anticipated it would be difficult to attract qualified contractors to bid the project. The County received proposals from five (5) general contractors in response to the request for proposals.

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

Assessment: The difference in operating costs was not projected to be significant whether the project was competitively bid or if the CM/GC process was used for contracting. However, the CM/GC process added the general contractor to the design team and that helped to ensure the budget was maintained. Additionally, the CM/GC process was beneficial for subcontractor bidding. The CM/GC was encouraged to receive a minimum of three (3) competitive bids for each discipline of construction. Competitively bid trade work ensured the County received the best value.

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

Assessment: The qualifications-based selection of the CM/GC allowed for a more informed contractor and for the County to award the contract to the firm it believed was most technically capable of managing the project. The CM/GC was part of the design team and was actively involved in design and constructability issues and had a better understanding of the financial requirements of the project. Additionally, the CM/GC was able to fully evaluate and understand the existing facilities and systems, along with the intended design direction prior to start of construction. This

information informed the design direction and approach to site logistics and safety and security measures during construction and resulted in better decision making by the project construction team, thereby saving time and money. Safety, cost savings, and the better assurance of completion on the desired date were of Public Benefit.

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

Assessment: The design and construction teams had numerous means to help control costs and maintain the overall construction budget. Rigorous value engineering efforts conducted during the design phases identified potential savings and provided opportunities to reduce costs.

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

Assessment: The CM/GC was required to have proven expertise in the construction of public buildings, access control, security requirements and remodel/retrofit projects. This experience assisted the project team in determining the best and safest logistics to pursue.

(F) Any likely increases in public safety;

Assessment: By having the CM/GC part of the project team early, they were able to evaluate and plan their approach to site logistics and safety and security measures during construction.

(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;

Assessment: Including the Contractor in the planning process increased safety and thereby, reduced risk. The CM/GC contract reduced risk by allowing for coordination and evaluation of constructability ahead of final project design. This process is not necessarily present under the Design-Bid-Build method of contracting.

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

Assessment: The exemption had no effect on the funding sources.

(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;

Assessment: The County's ability to accurately estimate the cost of this project was complicated by the multitude of construction market conditions that existed at the time in Oregon (e.g., competition of other projects, environmental issues that limited construction materials, shortage of qualified craftsman, Covid-related supply chain issues, etc.), as well as the difficulty in establishing the best work sequence. Because the project had a limited budget, it was essential to reduce the risk of cost overruns.

A CM/GC contract allowed for more control over these market forces because the CM/GC assisted in developing design documents, a work plan, and contingencies that best accommodated both the County and contractor/subcontractors; identifying the best grouping of bid packages that will help

ensure better trade coverage; identifying supply chain issues; and adjusting the work plan when needs change along the way.

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

Assessment: The nature of this project required remodel of two existing buildings to fit Health Services' needs. The CM/GC method allowed the contractor to be a part of the planning team in developing a construction plan that accommodated unknowns inherent to remodel projects.

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

Assessment: The public improvement remodeled two existing structures.

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

Assessment: The 244 Kingwood remodel took place in several phases and was occupied during some of the construction period. The existing building was divided into two suites and the remodel project began with the 10,100 square foot suite. Remodel of the 1,880 square foot suite followed and continued after the larger suite was occupied. Additionally, improvements were made to the reception area after the building was occupied and serving the public.

(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

Assessment: The project consisted of multiple overlapping phases of construction. Remodel of the 244 Kingwood building began first with remodel of the 236 Kingwood building following behind by about 2 months. This allowed the CM/GC to competitively bid each remodel separately and to sequence trades between the two buildings.

(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;

Assessment: The County has legal counsel that is very familiar with Oregon construction and Public Contracting law as well as employees on staff that have many years of experience administrating alternative contracting method contracts.

8. Summary Conclusion

Following a thorough and objective evaluation, the Deschutes County Facilities Department has concluded that the use of the CM/GC project delivery method for the North County Campus Remodels was successful. The CM/GC delivery method proved to be an excellent tool for managing the scopes, schedules, budgets, and risks associated with the construction and remodel of an existing facility.

Furthermore, the Facilities Department concludes that the requirements set forth in ORS 279C.335 (2) were fully met. In some cases, the outcomes resulting from the CM/GCs' specialized and technical expertise, budget oversight, true value engineering and quality control exceeded expectations and provided a better-than-imagined environment for the public and staff alike. Gaining the Board's exemption for and use of the CM/GC method of alternative contracting on the project was a sound decision and there were many benefits to the project. Close team collaboration, open-book financial record-keeping and true value engineering provided demonstrable benefits and enabled the stakeholder teams to remain flexible and nimble with an eye on quality and costs.

9. Appendix A – Findings of Fact

Order 2021-978 Findings of Fact is attached, which granted exemption from competitive bidding and authorized the construction of the North County Campus Remodels project by means of a Construction Manager/General Contractor and authorized selection by request for proposal.



DESCHUTES COUNTY, Bend Oregon

FINDINGS OF FACT

Doc #2021-978

**For Exemption from Competitive Bidding and the Use of the Construction
Manager/General Contractor (CM/GC) Services of Contracting for**

for

**Deschutes County – Redmond North County Campus
236 and 244 Kingwood Remodel Project**

1. General

ORS 279C.335(2) permits a local contracting agency to exempt public improvement projects from traditional competitive bidding upon approval of Findings of Fact (“Findings”) showing that an alternative contracting process is a) unlikely to encourage favoritism or diminish competition and that b) the process will result in substantial benefit to the local contracting agency.

ORS 279C.400 – ORS 279C.410 describe the Request for Proposals method of solicitation as an alternative to traditional competitive bidding. Pursuant to ORS 279C.410(8), a public Agency using the Request for Proposals method may award a contract to the responsible proposer “whose proposal is determined in writing to be the most advantageous to the contracting agency based on the evaluation factors set forth in the request for proposals and, when applicable, the outcome of any negotiations authorized by the request for proposals.”

ORS 279C.330 defines “Findings” and identifies specific information to be provided as a part of Deschutes County’s justification. Under ORS 279C.335(5) a public hearing must be held before the findings are adopted, allowing an opportunity for interested parties to comment on the draft findings.

2. General

The current regional and local construction market is navigating unprecedented challenges, including labor shortages, global – local supply chain issues, as well as multiple public projects slated for construction over the coming year.

In consideration of these circumstances, Deschutes County Facilities seeks to utilize CM/GC Services, an alternative method of contracting, based on the Findings of Fact presented herein.

OC-2021-978

FINDINGS OF FACT

SUMMARY FINDINGS

1. **Competition will not be diminished.** This exception will likely encourage more competition in this tight market, rather than diminish competition. The Request for Proposals selection process will be competitive based on relevant selection criteria, will be publicly advertised, and will be open to all interested proposers as described in the findings below.
2. **This process will attract more contractors in this currently tight market.** This exemption will result in attracting more contractors in this tight market and result in better construction costs. Also, value will be added to the project and outcomes that would not otherwise be obtained under the standard design-bid-build process, especially in these current market conditions.

SPECIFIC FINDINGS, WHICH SUPPORT THE SUMMARY FINDINGS, ARE AS FOLLOWS:

1. **The CM/GC will be selected through a competitive process in accordance with the qualifications-based selection process authorized by Deschutes County Board of Commissioners. Therefore, it is unlikely that the awarding of the construction contract for the Project will encourage favoritism or substantially diminish competition. This finding is supported by the following:**
 - A. **SOLICITATION PROCESS:** Pursuant to ORS 279C.360, the CM/GC solicitation will be advertised at least once in the Daily Journal of Commerce, as well as The Bulletin to maximize exposure.

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 County will enter into contract negotiations with the highest-ranking firm. Should negotiations fail, the County will have the right to negotiate with the second highest-ranking firm.
 - B. **FULL DISCLOSURE:** To ensure full disclosure of all information, the Request for Proposals solicitation package will include:
 - a. Detailed Description of the Project
 - b. Contractual Terms and Conditions
 - c. Selection Process
 - d. Evaluation Criteria
 - e. Role of Selection Committee
 - f. Provisions for Comments
 - g. Complaint Process and Remedies Available
 - C. **COMPETITION:** As outlined below, the County will follow processes which maintain competition in the procurement of a CM/GC.

- a. The County anticipates that competition for this contract will be similar to that experienced in other Projects of this type. The competition will remain open to all qualifying proposers.
- b. The selection and solicitation process employed will be open and impartial. Selection will be made on the basis of final proposal scores derived from qualifications, price and other components, which expand the ground of competition beyond price alone to include experience, quality, and approach to market conditions.
- c. The competitive process used to award subcontracts for all competitively bid construction work will be specified in the CM/GC contract and will be monitored by the County. The County will designate in the contract the proposed percentage of construction work that must be subcontracted and may not be self-performed by the CM/GC. The CM/GC contract will comply with the subcontractor competition requirements in ORS 279C.337.

D. SELECTION PROCESS: Other highlights of the selection process will include:

- a. A mandatory Pre-Proposal Conference and Site Tour will be announced and held. This conference will be open to all interested parties. During this Pre-Proposal Conference, as well as any time prior to five (5) business days before the close of the solicitation, interested parties will be able to ask questions, request clarifications and suggest changes in the solicitation documents if such parties believe that the terms and conditions of the solicitation are unclear, inconsistent with industry standards, or unfair and unnecessarily restrictive of competition.
- b. The evaluation process will determine whether a proposal meets the screening requirements of the RFP, and to what extent. The following process will be used:
 - i. Proposals will be evaluated for completeness and compliance with the screening requirements of the RFP. Those proposals that are materially incomplete or non-responsive will not be accepted.
 - ii. Proposals considered complete and responsive will be evaluated to determine if they meet and comply with the qualifying criteria of the RFP. If a proposal is unclear, the proposer may be asked to provide written clarification. Those proposals that do not meet all requirements will be rejected.
 - iii. Proposals will independently be scored by the voting members of the Selection Committee. Scores will then be combined and assigned to each proposal.
 - iv. The Selection Committee will convene to select from the highest-scoring proposers, a finalist(s) for formal interviews.
 - v. The Selection Committee will conduct the interview/s with the short-listed proposer/s.
 - vi. The Selection Committee will use the interview to confirm the scoring of the proposal and to clarify any questions. Based upon the revised scoring, the Selection Committee will rank the proposers, and provide an award recommendation.
 - vii. Deschutes County will negotiate a contract with the top-ranked firm. If an agreement cannot be reached, the County will have the option to enter into an agreement with the second-ranked firm, and so forth.

- c. Competing proposers will be notified in writing of the selection of the apparent successful proposer and will be given seven (7) calendar days after receipt of the notice to file any questions, concerns, or protests about the selection process. Protests will be subject to the requirements of the OAR 137-049-0450, must be in writing, and must be delivered to the County within seven (7) calendar days after receipt of the selection notice. No protest of the award selection shall be considered after this time period.
- d. The contract achieved through this process will require the CM/GC to use an open competitive selection process to bid all components of the job. The CM/GC's general conditions and fee make-up of the total cost will be evaluated as one of the scoring criteria. General Conditions must include supervision, bonding, insurance, and mobilization, and must be within the current industry standard range. The CM/GC's fee must be within the industry's standard range for a project of this size. The entire value of the project will be awarded through open, competitive processes, at either the general contractor and/or the subcontractor level.

2. The awarding of a construction contract for the Project using CM/GC method would offer the County critical construction expertise and value to the Project. This finding is supported by the following information required by ORS 279C.335(2)(b) and ORS 279C.330.

- A. SPECIALIZED EXPERTISE:** Early selection of the CM/GC creates more informed, better quality decision making by the project team. A more efficient design and construction team saves the County money and helps the team anticipate and mitigate challenges in the current construction market.

This exemption will allow Deschutes County to proactively seek construction and constructability expertise during the design process, well in advance of the standard competitive bid timeline, to address the complexities of existing conditions and the current construction market, to help inform the best decisions on behalf of the County. Value will be added to the Project, via early and time-critical construction expertise, that could not otherwise be obtained to the same depth, duration, or quality.

- a. **COORDINATION:** Use of a CM/GC in conjunction with the team approach will result in a better coordinated Project. By having the CM/GC part of the project team early, the CM/GC will have time to fully evaluate and understand the existing facilities and systems, along with the intended design direction prior to start of construction. This information will inform design direction and approach to site logistics and safety and security measures during construction.
- b. The CM/GC clarifies several critical variables valuable to the Project design. The CM/GC will guarantee the maximum price (GMP) to complete the Project; determines the construction schedule; establishes the sequence of work; is contractually bound to implement the final Project design within the GMP; and participates as an essential member of the Project design and construction team. By utilizing the Request for Proposal selection process, which allows the County to consider factors such as experience and expertise in addition to price, the County will ensure that the selected CM/GC will be competent addition to the team.

The CM/GC would help assess material selections relative to lead time issues, best opportunities to secure subcontractors and labor for trade coverage, better pricing, and will

help discuss and/or adjust the work plan to address project and construction market needs. This component cannot be addressed by the usual design/bid/build method of construction because selection is typically based on the lowest bidder and occurs at the completion of the design process.

- c. **CONSTRUCTION COORDINATION:** A CM/GC participating on this Project would provide timely assistance and support to the development of the design and the most suitable approach to accommodate existing infrastructure and safety for the adjacent tenant.
- d. **MARKET CONDITIONS:** As well as the multitude of construction market factors that currently exist today in Oregon and Washington (e.g., supply chain and lead time issues, construction labor shortages, significant competition of and with other projects), the difficulty in establishing the best work sequence complicates our ability to accurately estimate the cost of this Project. The current construction market challenges the interest and capacity for contractors to bid for jobs. CM/GC Services, an alternative contracting method, will be more likely to result in a more experienced and better suited contractor for this Project than the usual competitive/low bid procurement.

B. OPERATIONAL, BUDGET, FINANCIAL DATA

- a. **BUDGET:** The County has a fixed budget available for the Project, as well as a desired “as soon as possible” project delivery date. Early reliable pricing provided by the CM/GC, as well as scheduling and procuring help with long lead items during the design phase will allow for the potential to mitigate later related challenges.
- b. **LONG TERM COSTS:** The Project will require expertise regarding the constructability and long-term cost/benefit analysis of innovative design. This knowledge is best obtained directly from the construction industry. Many decisions will be required during the design process that will encompass immediate feedback on constructability and pricing. Under the traditional design-bid-build process, there is a high risk of increased change orders and schedule impacts for Project of this size and complexity. Since there are significant costs associated with delay, time is of the essence. Because the contractor participates during the design phase, the CM/GC process will assist in providing a scope of work, constructible design and phasing solutions that best meet the requirements of the Project with significantly lower risk to the Project’ costs. Involving the CM/GC during design will also allow Project risks to be addressed early and teamwork between the County, the design consultants, and the construction contractor (CM/GC) to minimize those risks.
- c. **FEWER CHANGE ORDERS:** When the CM/GC participates in the design process, fewer change orders occur during project construction. This is due to the CM/GC’s better understanding of the owner’s needs, the existing building and the architectural and engineering team’s intent. As a result, the Project is more likely to be completed on time and within budget. In addition, fewer change orders reduce the administrative time and costs of project management for both the County and the contractor.
- d. **GMP CHANGE ORDERS COST LESS:** CM/GC change orders will be processed at a lower cost under the GMP. The design-bid-build method typically results in the contractor charging 15%+ markup on construction change orders. The GMP method applies lower predetermined markups.

- e. **POTENTIAL SAVINGS:** Under the GMP method the County will enjoy the full savings, if actual costs are below the GMP. When the CM/GC completes the Project, any savings between the GMP and the actual cost accrue to the County.
- f. **CONTRACTOR'S FEE IS LESS:** Contracts with CM/GC's are designed to create a better working relationship with the contractor. Consequentially, the overhead and profit fee is typically slightly lower than the fee anticipated on similar design-bid-build contracts.

C. ADDITIONAL PUBLIC BENEFITS

- a. **TIME SAVINGS:** The use of CM/GC as an alternative contracting method allows for more streamlined construction documents, in lieu of a fully bid set where everything needs to be documented for pricing. This will help streamline the project and the completion date.
- b. **COST SAVINGS:** The Project will benefit from the active involvement of a CM/GC contractor during the design process in the following ways:
 - i. The contractor's input regarding material availability and lead times, as well as the cost-effectiveness of various alternatives will guide the design toward the most economic choices.
 - ii. Consideration of the specific equipment available to the contractor will allow the designer to implement solutions that utilize the capacity and availability of that equipment.
 - iii. The contractor will be able to provide current and reliable information regarding the cost of materials that are experiencing price volatility and the availability of scarce materials.
 - iv. The contractor will also be able to order materials while design is being completed in order to avoid inflationary price increases and/or lead time issues, to mitigate the lead-times that may be required for scarce materials.
- c. **GUARANTEED MAXIMUM PRICE (GMP) ESTABLISHES A MAXIMUM PRICE PRIOR TO COMPLETION OF DOCUMENTS:** The CM/GC will be able to obtain a complete understanding of the County's needs, the architect's design intent, the scope of the Project, and the operational needs of the Project by participating in the construction document phase. With the CM/GC participating in this phase they will be able to offer suggestions for improvement and make suggestions that will reduce costs. With the benefit of this knowledge, the CM/GC will also be able to guarantee a maximum price to be paid by the County for constructing the Project.

D. VALUE ENGINEERING

- a. **WITH THE DESIGN-BID-BUILD PROCESS:** If the County were to utilize the design-bid-build method, the contractor would not participate in this evaluation. In conducting value engineering under the design-bid-build approach, a value engineering consultant is hired to participate in the design and cost evaluation process. This process adds extra costs and administrative complications, without providing the same benefits of early and committed through construction contractor participation.
- b. **WITH CM/GC:** The CM/GC process offers a unique opportunity for value engineering that is not possible through the design-bid-build process. Value engineering is the means used to determine the best project design that meets the needs and priorities of the owner, within the

owner's budget. Value engineering is done most effectively by a team consisting of the owner, architect, consultants, and the contractor. When the contractor participates, the team can render the most comprehensive evaluation of all factors that affect the cost, quality, and schedule of the project.

- i. The CM/GC method has the benefit of:
 - the ability to best set/anticipate the schedule within these current market conditions;
 - the ability to anticipate long lead items and how to best gain subcontractor commitment to this project,

Through integrated participation, a project's scope and design evolve that has greater value for the owner, and is not likely to be the same project or product created by the design-bid-build method.

CONCLUSIONS OF LAW

The above "Findings" show that the CM/GC process for the Construction of the North County Services project/s complies with the requirements of ORS.279C.335(2) for exemption of the project from competitive bidding.

PROPOSED ORDER

ORDER GRANTING EXEMPTION FROM COMPETITIVE BIDDING, AUTHORIZING THE CONSTRUCTION OF THE North County Campus/236 and 244 Kingwood Remodel PROJECT BY MEANS OF A CONSTRUCTION MANAGER/GENERAL CONTRACTOR AND AUTHORIZING SELECTION BY REQUEST FOR PROPOSAL

WHEREAS, the Board of County Commissioners of Deschutes County is the Local Contract Review Board for the County and in that capacity has authority to exempt certain contracts from competitive bidding requirements of 279C and associated county code provision, and

WHEREAS, the Board has determined that the Construction of the North County Campus/236 and 244 Kingwood Remodel Project should be constructed by a CM/GC.

The Board finds as follows:

1. The Board adopts the specific "Findings of Fact" set forth above.
2. The "Findings" show that an exemption from competitive bidding for the project complies with the requirements of ORS 279C.335 (2) and the Attorney General's Model Contract Rules, OAR 137-049-0630 (2) for exemption of the project from competitive bidding.

NOW, THEREFORE, the Board of Commissioners orders as follows:

The contract for the construction of the North County Campus/236 and 244 Kingwood Remodel Project in Redmond , Oregon by a Construction Manager/General Contractor is exempted from competitive bidding and the CM/GC shall be selected by the Request-for-Proposals method in accordance with the Attorney General's Model Contract Rules and the process described in the above findings.


Dated this 8 of December, 2021



ANTHONY DeBONE, Chair, County Commissioner



PHIL CHANG, Vice Chair, County Commissioner



PATTI ADAIR, County Commissioner



**BOARD OF
COMMISSIONERS**

AGENDA REQUEST & STAFF REPORT

MEETING DATE: December 8, 2021

SUBJECT: Construction Manager/General Contractor Findings of Fact for the North County Campus 236 and 244 Kingwood Remodel Project

RECOMMENDED MOTION:

Move approval of Document No. 2021-978 Construction Manager General Contractor Findings of Fact for the North County Campus 236 and 244 Kingwood Remodel Project.

BACKGROUND AND POLICY IMPLICATIONS:

The Facilities Department is developing plans and specifications for the North County Campus at 236 and 244 Kingwood in Redmond, Oregon. This Findings of Facts establish the basis for the use of the Construction Manager/General Contractor method of contracting as an alternative method due to current market conditions which include labor shortages, global and local supply chain issues, and the significant number of local public projects slated for construction over the coming year. The Facilities Department is seeking to utilize CM/GC services, an alternative method of contracting, based on the attached Findings of Fact.

BUDGET IMPACTS:

No budget impact at this time. If approved, this alternative, qualifications-based method would be used to select a CM/GC which would participate in the project design and solicit competitive bids for sub-contractor scopes of work and would manage and deliver the construction of the project. This project is budgeted for FY 2022 in Campus Improvements Fund 463.

ATTENDANCE:

Lee Randall

DESCHUTES COUNTY DOCUMENT SUMMARY

(NOTE: This form is required to be submitted with ALL contracts and other agreements, regardless of whether the document is to be on a Board agenda or can be signed by the County Administrator or Department Director. If the document is to be on a Board agenda, the Agenda Request Form is also required. If this form is not included with the document, the document will be returned to the Department. Please submit documents to the Board Secretary for tracking purposes, and not directly to Legal Counsel, the County Administrator or the Commissioners. In addition to submitting this form with your documents, please submit this form electronically to the Board Secretary.)

Please complete all sections above the Official Review line.

Date: December 3, 2021

Department: Facilities

Contractor/Supplier/Consultant Name: n/a

Contractor Contact: n/a

Contractor Phone #: n/a

Type of Document: Findings of Fact

Goods and/or Services: n/a

Background & History:

The Facilities Department is developing plans and specifications for the North County Campus at 236 and 244 Kingwood in Redmond, Oregon. This Findings of Facts establish the basis for the use of the Construction Manager/General Contractor method of contracting as an alternative method due to current market conditions which include labor shortages, global and local supply chain issues, and the significant number of local public projects slated for construction over the coming year. The Facilities Department is seeking to utilize CM/GC services, an alternative method of contracting, based on the attached Findings of Fact.

Agreement Starting Date: December 8, 2021 **Ending Date:** n/a

Annual Value or Total Payment: \$ N/A

Insurance Certificate Received (check box)
Insurance Expiration Date: n/a

Check all that apply:

- RFP, Solicitation or Bid Process
 - Informal quotes (<\$150K)
 - Exempt from RFP, Solicitation or Bid Process (specify – see DCC §2.37)
- _____

Funding Source: (Included in current budget? X Yes No

Is this a Grant Agreement providing revenue to the County? Yes No


Departmental Contact and Title: Lee W. Randall, Director Phone #: 541-617-4711

Department Director Approval:  12/2/21
Signature Date

Distribution of Document: Who gets the original document and/or copies after it has been signed? Include complete information if the document is to be mailed.

Official Review:

County Signature Required (check one) BOCC Department Director (if <\$25K)
 Administrator (if >\$25K but <\$150K; if >\$150K, BOCC Order No. _____)

Legal Review  Date 12/7/21

Document Number 2021-978