

DRAFT FINDINGS FOR EXEMPTION FROM COMPETITIVE BIDDING

City of Lebanon Oregon

For Proposed

Cheadle Lake Park Improvements Project Project No. 23704

Linn County

May 2025



Oregon Revised Statute (ORS) 279C.300 requires competitive bidding of public works improvement contracts unless specifically excepted or exempted from competitive bidding as provided under ORS 279C.335. Under ORS 279C.335, the City of Lebanon Local Contract Review Board may exempt a contract from competitive bidding based on approval of two findings:

1. The exemption is unlikely to encourage favoritism in the awarding of the public improvement contract or substantially diminish competition for the public improvement contract.
2. Awarding a public improvement contract under the exemption will likely result in substantial cost savings and other substantial benefits to the City of Lebanon.

In approving the finding under ORS 279C.335(2)(b), the Local Contract Review Board must consider the type, cost and amount of the contract and, to the extent applicable to the particular public improvement contract, all items outlined in ORS 279C.335(2)(b)(A-N).

This document presents information the City of Lebanon Local Contract Review Board will consider in its approval of the findings to exempt the Cheadle Lake Park Improvements Project from competitive bidding and use a CM/GC method of delivery.

BACKGROUND

In an effort to meet ADA Transition Plan Goals, the Lebanon Parks Master Plan Goal of developing Cheadle Lake Park into a multi-use regional park, and the 2040 Vision and Community Strategic Action Plan Goals for a Healthy and Safe Community, the City of Lebanon is undertaking the Cheadle Lake Parks Improvement Project. The project includes installation of an ADA accessible restroom and concession stand, amphitheater, 238 parking spaces that include 18 ADA spaces, water and sewer extensions into the park and ADA paved multi-use pathways that will connect to the existing trail system.

SUMMARY OF FINDINGS

In regards to, ORS 279C.335, the City of Lebanon Local Contract Review Board has considered the following two findings in its decision to exempt from the Cheadle Lake Park Improvements Project from competitive bidding:

1. *The exemption is unlikely to encourage favoritism in the awarding of the public improvement contract or substantially diminish competition for the public improvement contract.*

Analysis: The City will select the CM/GC firm through a competitive selection process. The City will issue a Request for Proposals (RFP) in a manner that will attract competition from qualified firms through advertisement in the Daily Journal of Commerce and posting on the City's web site.

The Request for Proposals will attract proposers having the specialized knowledge, capacity, and skills for the project from within the state and the Pacific Northwest. A sufficient number of CM/GC firms are available to respond to the RFP.

Pre-defined scoring criteria will be included in the RFP. Scoring criteria will be based on qualifications and experience of the firm related to the project components, complexity, and size; qualifications and experience of the proposed CM/GC team related to performance on similar recent projects; project understanding and approach; ability to achieve cost- reduction through value engineering; ability to self-perform portions of the work; safety record; financial standing; and pricing of services for the project. Review of proposals and scoring will be performed by City staff with the assistance of the design engineer. Reviewers will follow the pre-defined scoring criteria.

Additionally, the contract between the City and the CM/GC firm will require portions of the work to be contracted by the CM/GC firm through receipt of competitive proposals. The CM/GC firm will be required to comply with the provisions of ORS 279C.337 for selection of subcontractors.

Finding: The process used by the City to select the CM/GC firm and the number of firms available to propose makes the exemption unlikely to encourage favoritism in the awarding of the public improvement project or substantially diminish competition for the public improvement contract.

2. *Awarding a public improvement contract under the exemption will likely result in substantial cost savings and other substantial benefits to the City of Lebanon.*

Analysis: The project includes utility extensions, pathways, parking area and structures, the City will need a contractor that has multiple experiences for these conditions.

Awarding a contract to a qualified CM/GC contractor provides opportunity for the City to employ a contractor-led value engineering review of the original design. The RFP procurement approach allows the City to select a CM/GC firm most capable of achieving the scope and any cost reductions and deliver high quality project within an agreed upon guaranteed maximum price and schedule.

The CM/GC contractor can provide realistic determination of costs and constructability issues that will allow cost-benefit decisions to be made by the City. The contracting method will allow alternatives to be reviewed in a team environment of City staff, design engineer, and contractor working in a partnership. During the process, the CM/GC's construction experience and knowledge will aid in early identification of effective measures to minimize risks. This partnering approach will likely reduce the need for change orders, claims, and delays, resulting in significant cost savings and delivery of quality facilities on time.

Using CM/GC delivery for the New Water Treatment Plant and the Westside Interceptor Project, the City realized significant advantages to the qualifications-based selection through early collaboration between the design team and the contractor, and the ability to reduce costs/risks through contractor input into the construction methods. It is likely that there will be a lower chance of disruption to the schedule, cost overruns, and delays by using the CM/GC approach.

Finding: Awarding the project to a CM/GC contractor under the exemption provides opportunity to achieve potential cost savings and other substantial benefits to the City. The City will be able to employ a contractor led value engineering review of the design; take advantage of collaboration between the City, design engineer, and the contractor; and take advantage of the contractor's knowledge and experience to manage risks and possibly reduce costs.

RESPONSE TO ITEMS UNDER ORS 279C.335(2)(b)

In approving the finding under ORS 279C.335(2)(b), the Local Contracting Review Board must consider the type, cost and amount of the contract and, to the extent applicable to the particular public improvement contract items outlined in ORS 279C.335(2)(b)(A-N). Information considered by the Local Contract Review Board related to each of these requirements follows:

(A) *How many persons are available to bid:*

Information considered by the Local Contract Review Board: The City will select the CM/GC firm through a competitive selection process. The City will issue a Request for Proposals (RFP) in a manner that will attract competition from qualified firms through advertisement in the Daily Journal of Commerce and posting on the City's website.

The Request for Proposals will attract proposers having the specialized knowledge, capacity, and skills for the project from within the state and the Pacific Northwest. A sufficient number of CM/GC firms are available to respond to the RFP.

Some of the qualified CM/GC firms in the Pacific Northwest that may respond the City's RFP are listed below:

- Emery & Sons Construction
- Fowler Construction
- Knife Rover
- Slayden Constructors
- North Santiam Paving
- Pacific Excavation
- Wildish

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

Information considered by the Local Contract Review Board: The Engineer's Estimate values the cost of the project at \$4,500,000.00 to \$5,000,000.00. Operating costs shall be incorporated into the City's yearly budget and will be paid through Park System Development Fees and the \$1,000,000.00 Local Government Grant. The projected overall operation/maintenance costs of the proposed public improvements are approximately \$50,000 per year.

(C) *Public Benefits that may result from granting the exemption:*

Information considered by the Local Contract Review Board: The City received a General Fund Grant for Park Accessibility from the State in the amount of \$2,600,000.00 and a Local Government Grant from the State in the amount of \$1,000,000.00 to assist in the development of Cheadle Lake Park Improvements. The city will use matching funds from the Park System Development Fund to complete the improvements. The Cheadle Lake Improvements Project includes public improvements and structures that will require a qualified contractor to construct due to the complexity of the project. The Exemption will allow the City, selected Contractor, and Design Engineer to address materials costs and

constructability issues prior to beginning construction.

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

Information considered by the Local Contract Review Board: Granting the exemption will allow the City to select a qualified CM/GC firm to lead a value engineering effort using real-time pricing to determine best overall product and pricing to provide information needed to determine cost of the project.

The CM/GC can provide realistic determination of costs and constructability issues that will allow cost-benefit decisions to be made by a team of City staff, design engineer, and contractor working in a partnership. Contractor led value engineering will decrease the cost of the project.

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

Information considered by the Local Contract Review Board: Construction the park improvements will require a specialized contractor with multiple experiences.

- (F) *Any likely increases in public safety:*

Information considered by the Local Contract Review Board: It is important to build the project with safety foremost in the contractor's approach to ensure safe working conditions for the contractor, neighbors, and traveling public that could be affected by the project.

The CM/GC procurement method allows actual safety performance and work on similar projects to be considered as a selection criterion. It also permits the City to work closely with the contractor to ensure that the design permits appropriate safety measures, that the contractor understands the City's safety concerns, and that the contractor will take appropriate steps to address them.

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

Information considered by the Local Contract Review Board: CM/GC contracting will allow the construction team to work together to determine the best means and methods to construct the project thus minimizing the need for a significant change order and minimize risk during construction.

Strict adherence to safety measures will be needed to protect the public and workers as this project is being constructed. The partnering relationship provided through a CM/GC delivery will provide opportunity for the City to work with the Contractor to ensure safety measures are followed and revised if needed to reduce the risk to the public.

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

Information considered by the Local Contract Review Board: TH CM/GC Procurement method of Contracting is allowed through Oregon Revised Statute. Funding for this project is expected to be through the Local Government Grant Program and Parks System Development Funds. All the above mentioned funds allow for the CM/GC Procurement method to be used.

- (I) *Whether Granting the exemption will better enable the City to control the impact that market conditions may have of the cost of and the time necessary to complete the public improvements:*

Information considered by the Local Contract Review Board: CM/GC Contracting has the benefit of allowing the selected contractor to solicit competitive bids for various aspects of the work (materials, labor, etc.) early in the project and coordinate construction activities among all resources to minimize construction risks and delays. The CM/GC contracting method will also provide increased opportunity to identify and reach out to qualified small businesses that may otherwise not have an opportunity to participate in the project.

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

Information considered by the Local Contract Review Board: The technical complexity of the project requires a contractor that can integrate work throughout entire Park and be able to manage all aspects of it. The CM/GC process will allow the City to acquire a highly qualified contractor with adequate staffing for the site supervision needed. As a result, it is more likely that the CM/GC firm can address the technical complexities and size of the project more effectively, in part because of their qualifications and adequate staffing.

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

Information considered by the Local Contract Review Board: A majority of the project includes installation of ADA pathways and parking areas, construction of an amphitheater and concession stand along with new water and sewer mains.

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

Information considered by the Local Contract Review Board: The public improvements included in this exemption include the Cheadle Lake Park Improvements.

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

Information considered by the Local Contract Review Board: Construction of the project is expected to be done in one phase. It is likely, that due to the length and complexity of the project it will take one to complete.

- (N) *Whether the City has, or has retained under contract, and will use city 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 City will use to award the public improvement contract and to help*

negotiate, administer and enforce the terms of the public improvement contract.

Information considered by the Local Contract Review Board: The City recently constructed a New Water Treatment Plant and the Westside Interceptor Project using the CM/GC method. The projects were successfully completed within budget and schedule. Further, through the CM/GC method the City was able to partner with the contractor to perform a substantial Value Engineering, address risks, reduce change orders, all which benefited the community. Through the recent successful project, the City has reasonable experience in using the CM/GC delivery method.

To support the City in the process, the City under contract with Udell Engineering (Project Design) and Branch Engineering (Project Design).

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CONCLUSION

The City of Lebanon Contract Review Board can meet the requirements for allowing an exemption to the competitive bidding process as identified in ORS 279C.335 (2) for the project. Use of the CM/GC alternative delivery method for the project allows:

- Use of the contractor led value engineering of the design with real-time construction pricing for the City to make judicious decisions that truly benefit the City.
- Use of a delivery method that allows decisions to be made through a partnership between the City, design engineer, and contractor.
- A guarantee of the maximum price for construction.
- Competitive selection of suppliers, equipment, materials, and subcontractors with solicitations managed by a contractor knowledgeable of the marketplace and market conditions.
- Sufficient and qualified staff to manage the work site and subcontractors
- Coordinated responsibility for worker safety
- CM/GC assumption of some risk (i.e., cost, schedule, safety, maintaining service, and constructability).