

FINDING OF FACTS FOR THE USE OF THE CM/GC CONTRACTING METHOD

Before the Board of Directors of the Alsea School District Sitting as Local Contract Review Board Regarding the Alsea West Wing Seismic Rehabilitation Project

The Alsea School District (the District) has been awarded a grant from the State of Oregon to cover the costs associated with seismic rehabilitation of the Alsea School west classroom wing, library and boiler room (the Project). Initial planning has been completed and design will be initiated in August when the grant award is finalized. Construction activities will begin in May 2027 with the expectation that the majority of the work will be completed over that summer when school is not in session. The budget for completing this work is limited, the schedule is short duration and critical to occupancy for the following school year, there is a high potential for unforeseen existing conditions during construction, and safety is a primary concern.

In consideration of these facts, an alternative method of construction is proposed as an exception to the standard Public Contracting Statutes and Rules. Therefore, under Oregon Statutes and the following findings, the District is recommending use of the Construction Management/General Contractor (CM/GC) method of construction contracting.

The guiding applicable statute is ORS 279C.335 which requires, with certain exemptions, that all public contracts be based on competitive bidding and be awarded to the lowest responsive and responsible bidder. ORS 279A.060 and ORS 279C.335(2) permit the School Board to act as the public contract review authority and to grant, under certain conditions and upon certain findings, specific exemptions from the requirement for competitive bidding.

Finding of Fact

Use of the CM/GC method to construct the Project will: (1) reduce the risk of financial and schedule impacts to the District; (2) allow the District to select a contractor with verified expertise required for the Project; (3) benefit the public by improving safety and coordination during construction; and (4) not encourage favoritism or diminish competition.

Specific findings which substantiate these conclusions are as follows:

1. Finding: The CM/GC method will reduce the risk of financial and schedule impacts to the District.
 - a. Reduced Financial Risk: The projects will take place during challenging economic conditions for construction. A large number of projects are underway in Oregon, especially infrastructure upgrades for schools and public facilities. Labor and material costs are escalating. As a result, there is a high probability of contractor default from extending themselves

beyond their capabilities and financial means. It would be very costly and disruptive if such a failure occurred during work on this project. Using the CM/GC process will allow the District to look deeply into the general contractor's workload and financial strength and eliminate participation by those companies who do not have the financial strength to successfully complete the project.

- b. **Guaranteed Maximum Price (GMP):** GMP contracting establishes a maximum cost prior to starting construction: The CM/GC will be able to obtain a complete understanding of the District's needs, the design intent and the scope of the project by participating in the development of the design documents. With the CM/GC's participation in the design phase of the project, they will offer suggestions for cost savings and improvements to the design. With the benefit of this knowledge, the CM/GC will be able to estimate the maximum price paid by the District before completing the final design and allow final adjustments for a GMP as necessary to stay within budget.
 - c. **Schedule Development With the CM/GC:** With the general contractor's active participation during design, they will have a thorough knowledge of construction scope and be able to accurately predict the schedule to complete the work. They will also contribute ideas for construction phasing to eliminate impacts. With this process, schedule delays will be minimized. Liquidated damages will also be included in the CM/GCs contract to further reduce the risk of schedule delays.
 - d. **Fewer Change Orders:** When the CM/GC participates in the design process, fewer change orders will occur during the construction process. This is due to the CM/GC's better understanding of the District's needs, the designer's intent, and their feedback on construction document details during design. As a result, the project is more likely to be completed on time and within budget.
 - e. **GMP Change Orders Cost Less:** The traditional Design-Bid-Build method typically results in contractors charging 15% mark-up on change orders. The CM/GC method applies predetermined mark-ups. The current industry standard for mark-up is in the range of 5% to 7%.
 - f. **GMP Savings:** Unlike the Design-Bid-Build method, the District will enjoy full savings with the CM/GC method. When the general contractor completes the project, actual costs are reviewed against the GMP and any savings are returned to the District.
2. **Finding:** The CM/GC method will allow the District to select a contractor with verified expertise required for the Project. Using the selection process described in Findings #4 below, the contractor's experience on similar project can be confirmed along with contacting references to validate their performance on cost, schedule, quality, communication and safety.
3. **Finding:** The CM/GC process will benefit the public by improving safety and coordination during construction. Specification will be developed requiring the contractor to provide for the public safety. However, there is often a large gap in

the knowledge between contractors who can properly implement these safety requirements and maintain good public relations. Through the CM/GC selection process, the District will be able to select a contractor with a proven safety record and who is committed to fully implementing a comprehensive safety and communication plan.

4. Finding: Competition will not be inhibited nor will favoritism be encouraged as a result of this exemption. The CM/GC will be selected through a competitive process in accordance with a fee and qualification-based process.
 - a. Solicitation Process: Pursuant to ORS 279C.360 the CM/GC Request for Proposal (RFP) solicitation will be advertised in local and regional publications of general and industry-specific circulation.
 - b. Full Disclosure: To ensure full disclosure of information, the RFP will include the following information:
 - i. Detailed Description of the Project
 - ii. Contractual Terms and Conditions
 - iii. Selection Process
 - iv. Evaluation Criteria
 - v. Role of the Evaluation Committee
 - vi. Provision for Comments
 - vii. Complaint Process and Remedies
 - c. Selection Process: The selection process will include the following.
 - i. Interested parties will participate in a mandatory pre-proposal meeting where the proposal requirements will be shared along with available project information.
 - ii. During the pre-proposal period, interested parties will be able to ask questions and request clarifications if they believe that any of the terms and conditions of the solicitation are unclear, inconsistent with industry standards or unfair and unnecessarily restrictive of competition.
 - iii. Sealed proposals will be submitted to the District's office at a time specified in the advertisements.
 - iv. The following evaluation process will be used:
 1. Proposals will be evaluated for completeness and compliance with the requirements of the RFP.
 2. Proposals considered complete and responsive will be evaluated to determine if they meet the qualifying criteria of the RFP. Those proposals that do not meet the requirements will be rejected.
 3. Proposals will be independently scored against predetermined criteria by the voting members of the Evaluation Committee. Scores will be combined and assigned to each proposal.
 4. The Evaluation Committee will select finalists from the highest ranked proposals for interviews unless a clear selection of the top firm is made by the Committee.

5. The Evaluation Committee may conduct interviews.
 6. The Evaluation Committee may use the interviews to clarify questions and finalize scoring. Based on the final scoring, the Evaluation Committee will rank the proposals and provide an award recommendation to the School Board.
 7. Following approval by the School Board, the District will offer a contract to the top ranked firm. If an agreement cannot be reached, the District will have the option to enter into an agreement with the second ranked firm, and so on.
 - v. Competing CM/GC firms will be notified in writing of the selection of the apparent successful proposal and will be given seven calendar days after receipt of the notice to tender questions or concerns about the selection process to the District.
 - vi. The contract with the CM/GC will require an open and competitive selection process for all components of the project as well as encourage the use of local qualified subcontractors.
5. Finding: The District has engaged a knowledgeable Owner's Representative and Project Manager to provide the necessary expertise and assistance to the District in managing the CM/GC contracting procedure and process for the advantage of the District.
 6. Finding: There will be no impact to the funding source as a result of this exemption. The District's funding source for this project will remain the same whether accomplished through a traditional Design-Bid-Build process or through the CM/GC process.
 7. Finding: There will be no adverse impact on the operation or budget if this exemption is provided. Whether this project is secured through a traditional Design-Bid-Build method or through the CM/GC process, the operational and budgetary impact will be the same other than the potential savings mentioned in Finding #1.

Conclusion of Findings of Fact

BE IT RESOLVED: It is in the best interest of the Alsea School District to utilize the CM/GC project delivery method for the Alsea School West Wing Seismic Rehabilitation Project. The CM/GC method will: (1) reduce the risk of budget and schedule impacts to the District; (2) allow the District to select a contractor with verified expertise required for the Project; (3) benefit the public by improving safety and coordination during construction; and (4) not encourage favoritism or diminish competition.

Chairperson of Board of Directors

Date