



**Regular Session**

**RS**

**Milwaukie City Council**



MILWAUKIE CITY COUNCIL  
**STAFF REPORT**

Agenda Item: **RS 5.**  
Meeting Date: **11/1/16**

To: Mayor and City Council  
Through: Bill Monahan, City Manager

Subject: **Resolution to Adopt CM/GC Findings**

From: Chuck Eaton, Engineering Director  
Katie Newell, Library Director  
Date: October 7, 2016

### **ACTION REQUESTED**

The City Council, acting as the local contract review board, should conduct a public hearing to consider findings prepared by staff to conform to ORS 279C.335 (1) and (2) and Public Contracting Rule 10.105A.

Approve the attached resolution to Adopt CM/GC Findings

### **HISTORY OF PRIOR ACTIONS AND DISCUSSIONS**

Bond Measure 3-477 was passed by the citizens of Milwaukie supporting a \$9.2 million bond to renovate and expand the current Ledding Library. The firm Shiels Obletz Johnsen (SOJ) has been hired as the Project Managers and an architectural design team will be in place early December 2016. After careful consideration, the City has found the Alternative Contracting Method CM/GC more appropriate than a traditional design-build process to meet the overall project objectives.

### **BACKGROUND**

The Construction Manager/General Contractor (CM/GC) process is a unique method used to accelerate project delivery. In the CM/GC process the project owner hires a contractor to provide feedback during the design phase before the start of construction. In order to utilize the process, the City must conform to ORS 279C.335 (1) and (2) and Public Contracting Rule 10.105A which allow a local contract review board to exempt certain contracts from traditional competitive bidding. To exempt a project, a local contract review board must show through findings that an alternative contracting process is unlikely to encourage favoritism or diminish competition resulting in cost savings.

The CM/GC process is broken down into two contract phases. The first contract phase, the design phase, allows the contractor to work with the designer and the project owner to identify risks, provide costs projections and refine the project schedule. Once the design phase is complete, the contractor and project owner negotiate on the price for the construction contract. If all parties are in agreement with costs then the second contract phase, the construction phase, is kicked off and construction begins.

There are advantages to using the CM/GC process. The contractor acts as the consultant in the design process and can offer new innovations, best practices and reduced costs and schedule

risks as a result of the contractor's years of proven experience doing the actual work. This process also allows the project owner to employ new innovations, assist in the design process, and make informed decisions regarding cost and schedule.

City staff, the city attorney, and SOJ have evaluated the project and determined that the provisions of ORS 279C.335 (1) and (2) and Public Contracting Rule 10.105A can be met. In order to proceed with this process, City Council is asked to adopt the findings in support of the alternative contracting method CM/GC for the Ledding Library of Milwaukie Renovation and Expansion Project.

**CONCURRENCE**

The Engineering Director and Library Director concur with the adoption of these findings.

**FISCAL IMPACTS**

This will not increase the amount budgeted for this project.

**WORK LOAD IMPACTS**

This will not affect the work load.

**ALTERNATIVES**

Not adopting the findings.

**ATTACHMENTS**

1. Exhibit A - ORS 279C.335 (1) and (2)
2. Exhibit B - Public Contracting Rule 10.105A
3. Exhibit C - Findings
4. Resolution

## Exhibit A

**2015 ORS § 279C.335<sup>1</sup>****Competitive bidding**

- exceptions
- exemptions

- (1) All public improvement contracts shall be based upon competitive bids except:
- (a) A public improvement contract with a qualified nonprofit agency that provides employment opportunities for individuals with disabilities under ORS 279.835 (Definitions for ORS 279.835 to 279.855) to 279.855 (Entities that may obtain goods and services through Oregon Department of Administrative Services).
  - (b) A public improvement contract that is exempt under subsection (2) of this section.
  - (c) A public improvement contract with a value of less than \$5,000.
  - (d) A public improvement contract with a contract price that does not exceed \$100,000 made under procedures for competitive quotes in ORS 279C.412 (Competitive quotes for intermediate procurements) and 279C.414 (Requirements for competitive quotes).
  - (e) A contract to repair, maintain, improve or protect property the Department of Veterans Affairs obtains under ORS 407.135 (Authority of department) and 407.145 (Purchase and control of property) (1).
  - (f) An energy savings performance contract that a contracting agency enters into in accordance with rules of procedure adopted under ORS 279A.065 (Model rules generally).
- (2) Subject to subsection (4)(b) and (c) of this section, the Director of the Oregon Department of Administrative Services, a local contract review board or, for contracts described in ORS 279A.050 (Procurement authority) (3)(b), the Director of Transportation 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 Director of the Oregon Department of Administrative Services, the Director of Transportation or 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 or, if the contract is for a public improvement described in ORS 279A.050 (Procurement authority) (3)(b), to the contracting agency or the public. In approving a finding under this paragraph, the Director of the Oregon Department of Administrative Services, the Director of Transportation or 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:
    - (A) How many persons are available to bid;
    - (B) The construction budget and the projected operating costs for the completed public improvement;
    - (C) Public benefits that may result from granting the exemption;
    - (D) Whether value engineering techniques may decrease the cost of the public improvement;
    - (E) The cost and availability of specialized expertise that is necessary for the public improvement;
    - (F) Any likely increases in public safety;
    - (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;
    - (H) Whether granting the exemption will affect the sources of funding for the public improvement;
    - (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;
    - (J) Whether granting the exemption will better enable the contracting agency to address the size and technical complexity of the public improvement;
    - (K) Whether the public improvement involves new construction or renovates or remodels an existing structure;
    - (L) Whether the public improvement will be occupied or unoccupied during construction;

- (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**
- (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.
- (c) As an alternative to the finding described in paragraph (b) of this subsection, if a contracting agency or state agency seeks an exemption that would allow the contracting agency or state agency to use an alternative contracting method that the contracting agency or state agency has not previously used, the contracting agency or state agency may make a finding that identifies the project as a pilot project for which the contracting agency or state agency intends to determine whether using the alternative contracting method actually results in substantial cost savings to the contracting agency, to the state agency or, if the contract is for a public improvement described in ORS 279A.050 (Procurement authority) (3)(b), to the contracting agency or the public. The contracting agency or state agency shall include an analysis and conclusion regarding actual cost savings, if any, in the evaluation required under ORS 279C.355 (Evaluation of public improvement projects not contracted by competitive bidding).
- (3) In making findings to support an exemption for a class of public improvement contracts, the contracting agency or state agency shall clearly identify the class using the classes defining characteristics. The characteristics must include a combination of project descriptions or locations, time periods, contract values, methods of procurement or other factors that distinguish the limited and related class of public improvement contracts from the agency's overall construction program. The agency may not identify a class solely by funding source, such as a particular bond fund, or by the method of procurement, but shall identify the class using characteristics that reasonably relate to the exemption criteria set forth in subsection (2) of this section.
- (4) In granting exemptions under subsection (2) of this section, the Director of the Oregon Department of Administrative Services, the Director of Transportation or the local contract review board shall:
- (a) If appropriate, direct the use of alternative contracting methods that take account of market realities and modern practices and are consistent with the public policy of encouraging competition.
- (b) Require and approve or disapprove written findings by the contracting agency or state agency that support awarding a particular public improvement contract or a class of public improvement contracts, without the competitive bidding requirement of subsection (1) of this section. The findings must show that the exemption of a contract or class of contracts complies with the requirements of subsection (2) of this section.
- (c) Require a contracting agency or state agency that procures construction manager/general contractor services to conduct the procurement in accordance with model rules the Attorney General adopts under ORS 279A.065 (Model rules generally) (3).
- (5) (a) A contracting agency or state agency shall hold a public hearing before approving the findings required by subsection (2) of this section and before the Director of the Oregon Department of Administrative Services, the Director of Transportation or the local contract review board grants an exemption from the competitive bidding requirement for a public improvement contract or a class of public improvement contracts.
- (b) Notification of the public hearing must be published in at least one trade newspaper of general statewide circulation a minimum of 14 days before the hearing.
- (c) The notice must state that the public hearing is for the purpose of taking comments on the draft findings for an exemption from the competitive bidding requirement. At the time of the notice, copies of the draft findings must be made available to the public. At the option of the contracting agency or state agency, the notice may describe the process by which the findings are finally adopted and may indicate the opportunity for further public comment.
- (d) At the public hearing, the contracting agency or state agency shall offer an opportunity for any interested party to appear and comment.
- (e) If a contracting agency or state agency must act promptly because of circumstances beyond the agency's control that do not constitute an emergency, notification of the public hearing may be published simultaneously with the agency's solicitation of contractors for the alternative public contracting method, as long as responses to the solicitation are due at least five days after the hearing and approval of the findings.
- (6) The purpose of an exemption is to exempt one or more public improvement contracts from competitive bidding requirements. The representations in and the accuracy of the findings, including any general description of the resulting public improvement contract, are the bases for approving the findings and granting the exemption. The findings may describe anticipated features of the resulting public improvement contract, but the final parameters of the contract are those characteristics or specifics announced in the solicitation document.
- (7) A public improvement contract awarded under the competitive bidding requirement of subsection (1) of this section may be amended only in accordance with rules adopted under ORS 279A.065 (Model rules generally).
- (8) A public improvement contract that is excepted from the competitive bidding requirement under subsection (1)(a), (c), (d), (e) or (f)

of this section is not subject to the exemption requirements of subsection (2) of this section. [2003 c.794 §103; 2003 c.794 §§104,105a; 2005 c.103 §§12,13,14; 2005 c.625 §§58,59,60; 2007 c.70 §§69,70,71; 2007 c.764 §§14,15,17; 2013 c.522 §8]

...

(No annotations for this section.)

### Related Statutes<sup>3</sup>

- 279C.300  
Policy on competition
- 279C.330  
Findings defined
- 279C.332  
Definitions for ORS 279A.065, 279C.307, 279C.335, 279C.337 and 279C.380
- 279C.350  
Exemption procedure
- 279C.355  
Evaluation of public improvement projects not contracted by competitive bidding
- 279C.365  
Requirements for solicitation documents and bids and proposals
- 279C.370  
First-tier subcontractor disclosure
- 279C.375  
Award and execution of contract
- 279C.400  
Competitive proposals
- 279.840  
Purpose
- 279.845  
Duties of Oregon Department of Administrative Services
- 279.850  
Procurement of product or service
- 279.855  
Entities that may obtain goods and services through Oregon Department of Administrative Services

<sup>1</sup> Legislative Counsel Committee, *CHAPTER 279C—Public Contracting - Public Improvements and Related Contracts*, [https://www.oregonlegislature.gov/bills\\_laws/ors/ors279C.html](https://www.oregonlegislature.gov/bills_laws/ors/ors279C.html) (2015) (last accessed Jul. 16, 2016).

<sup>2</sup> OregonLaws.org contains the contents of Volume 21 of the ORS, inserted alongside the pertinent statutes. See the preface to the ORS Annotations for more information.

<sup>3</sup> OregonLaws.org assembles these lists by analyzing references between Sections. Each listed item refers back to the current Section in its own text. The result reveals relationships in the code that may not have otherwise been apparent.

by Robb Shecter, [robb@oregonlaws.org](mailto:robb@oregonlaws.org)  
[www.oregonlaws.org](http://www.oregonlaws.org)

## Exhibit B

### 10.105 Public Improvement Contracts Involving Design or Construction Management

The City may enter into public improvement contracts without competitive bidding if the contracts involve design or construction management or require expertise beyond normal construction work. Unless exempt under some other exemption, a competitive proposal process must be used. One of the following specific processes shall be followed:

#### A. Construction Manager/General Contractor

The City may select a person or firm to act as a Construction Manager/General Contractor (CM/GC) to construct public improvements by means of a competitive proposal process.

1. A CM/GC performs specified Construction Manager services in addition to traditional General Contractor services. A CM/GC contract shall require full performance within a negotiated Guaranteed Maximum Price (GMP).

The basis for payment shall be reimbursable direct costs plus a fee constituting full payment for work and services rendered, which together shall not exceed the GMP.

2. The solicitation documents shall include:

a. A description of the evaluation process and criteria. The criteria may include cost, quality, experience, availability, commitment to timely completion, and other factors.

b. The process to be followed for establishing the guaranteed maximum price.

c. A description of the circumstances under which any of the following activities may be authorized and undertaken for compensation prior to establishing the GMP, but only after unit prices are established:

i. Early procurement of materials and supplies;

ii. Early release of bid packages for such things as site development; and

iii. Other advance work related to critical components of the project.

3. The contract documents shall include:

a. A description of the method by which the CM/GC shall competitively select contractors and subcontractors.

b. Either the maximum guaranteed price or a process for establishing a guaranteed maximum price.

c. A description of the situations in which the CM/GC may perform the work of the improvement without subcontracting, including any requirement that the CM/GC compete with others to do the work and the work that the CM/GC may perform directly without a competitive process.

d. The standards or factors under which changes or additional work that warrants an increase in the GMP, as well as criteria for decreasing the GMP. The GMP shall not be increased without a concomitant increase to the scope of the GMP. The disposition of any cost savings resulting from completion of the work below the GMP, including the CM/GC share, if any, in those cost savings. Normally, the cost savings

should accrue to the City.

e. The items or categories of items are eligible for cost reimbursement within the GMP.

f. A provision for a final audit adjustment and process.

g. A fee that is inclusive of profit, overhead and all other indirect or non-reimbursable costs. Costs determined to be included within the fee should be expressly defined wherever possible. The fee, first expressed as a proposed percentage of all reimbursable costs, shall be identified during and become an element of the selection process. It shall subsequently be expressed as a fixed amount when the GMP is established.

h. Any economic incentives, the specific criteria that apply and their relationship to other financial elements of the Contract (including the GMP).

## **Exhibit C**

### **FINDINGS IN SUPPORT OF ALTERNATIVE CONTRACTING METHOD FOR THE LEDDING LIBRARY OF MILWAUKIE RENOVATION AND EXPANSION PROJECT**

#### **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.335, 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 and other substantial benefits 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 contracting 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**

###### History

The Ledding Library of Milwaukie was built in the early 1960s and has become a community focal point since that time. When the Ledding Library first opened, Milwaukie had only 10,000 residents, and the library has not been significantly improved since 1987. During the fall of

1999, the Ledding Library Board requested permission from the Milwaukie City Council to develop a long range plan for the Ledding Library. With the City Council's approval, the Ledding Library Long Range Planning Committee (LLRPC) was formed and subsequently began meeting in January 2000. As its work progressed, the Committee decided that a library consultant would be an asset in bringing its work to a successful conclusion. A plan, entitled Planning for the Future, was affirmed by the Ledding Library Board and presented to the Milwaukie City Council for adoption at its April 3, 2001 meeting. After reviewing the plan, the Council directed the Library Board and staff to move forward with the project outlined in the Long Range Plan. In regard to the Ledding Library facility, the 2001 long range plan document stated that the current facility would need to be expanded or relocated within three to seven years to meet Oregon Library Association Standards for Oregon Public Libraries minimum facility standards and that the library would be a viable linchpin of the Downtown Development Plan. In December 2003, the architectural firm of Dortinacq and Associates developed the Ledding Library Master Plan, which called for a Ledding Library on the current site expanded to 26,000 square feet. No funding for the project was identified or provided and the library expansion project came to a halt.

Today, the City has more than 20,000 residents, but the library has not expanded to meet demand that has more than doubled in the past 50 years. In May 2016, the citizens of Milwaukie passed a bond measure to fund improvements and expand the Ledding Library. Money raised from the approved bonds will be used in part to increase space for the popular children and teen learning programs, as well as an expansion of audiobooks and large print materials for the city's growing senior population. Shorter shelving and wider aisles will also be installed to increase accessibility for people with disabilities. The City has hired Shiels Oblatz Johnsen, Inc. (SOJ) as the Project Manager/Owner's Representative. SOJ will coordinate the full project, starting with assembling the Project Team (architectural design team and CM/GC), and then coordinating the design, public approvals and permits, construction, and occupancy in the completed project.. The Library plans to continue offering its services to the community during construction.

#### Budget and Financial Data

The bond funds made available to renovate and expand the library is \$9,200,000 dollars. An additional \$1,000,000 dollar contribution will be provided by the Library Information Network of Clackamas County (LINCC). The integration of the old and the new in an occupied space in a fast track manner with a limited budget will be a large challenge for this Project. The Project requires a fast track process as the expanded space is currently necessary to adequately service the needs of the community.

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 new spaces and systems into the existing building will present a large challenge.

The firm Guaranteed Maximum Price (GMP) contract amount to be negotiated 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.

## **Available Bidders**

The number of available qualified and experienced bidders for a Project of this type is expected to be limited. The Project involves construction upon a special purpose building, a public library. The Project involves renovation of existing space in a 50 year old building and constructing a substantial expansion that is planned to integrate visually and architecturally into the existing details and forms. The integration of new and modern systems with the existing facility and materials in a manner that achieves the Project goals will be extremely challenging. The work will occur in and around an occupied space. The number of contractors who have past experience in work of this nature and adequate resources to successfully complete such a project is limited in number.

## **Construction Budget**

The amount of funds available to plan, design and construct the needed improvement to the library is limited. The opportunity to get additional funds is not expected. The CM/GC process is viewed by the City and its consultant SOJ as the best procurement form to achieve the necessary construction within the limited funding available.

## **Public Benefit**

The Project is needed to accommodate library services for the foreseeable future. This expansion is in fact well past due. There are numerous limitations with the current space that increasingly hamper the City's efforts to provide quality and efficient library services to the residents of the City. The capacity of the existing library facility has clearly been exceeded, and the library is not currently accessible to all the members of our community. The Project will provide improvements such as electrical, plumbing, heating and cooling, and seismic upgrades into the existing structure, and access to additional space for currently popular activities, as well as adding capacity to serve our aging and disabled residents. The additional areas will make the City's provision of library services more efficient and more widely available to the public.

## **Value Engineering**

The CM/GC process provides many benefits and opportunities for cost savings, a process that will be necessary to achieve the desired improvements within the limits imposed by available funding. 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 an 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 purchase price and installation, 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**

Working in occupied buildings, integrating new systems into older building systems, renovating older buildings, constructing special purpose public buildings, and integrating a substantial expansion of area into an existing older building and style is a challenge. The contractor ultimately selected as CM/GC will demonstrate experience and expertise in providing CM/GC services to public and/or private organizations under these challenging circumstances, and will be well qualified in the area of repairing and renovating older buildings and integrating newer construction and systems into exiting older systems, all while such is occupied.

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 compliance with ADA requirements. All work during the construction will be done in accordance with Oregon Occupational Safety and Health Administration (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.

## **Effect on Funding**

The use of CM/GC will have no effect upon the availability of funding.

## **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.

In addition, using the CM/GC process will allow trades to become involved earlier in the process. The current market for construction services is becoming increasingly tight with substantial increases in material and labor costs for public and private construction projects. By allowing the involvement of trades earlier in the process, the CM/GC will be able to acquire and involve higher quality subcontractors, which will lead to higher quality product for the City and its residents. Regardless, the CM/GC will be required to bid the major subcontracts for the project. These 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 1960 era existing building. Certain land use and natural resource overlays and requirements will drive and affect the construction that will occur and will require the CM/GC's input to handle in a cost effective manner and stay within the available budget. 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 special purpose 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 special purpose bond approved by the citizens of the City and an LINCC contribution. The City needs budget predictability and project efficiency. The CM/GC process, with its negotiated contract price, 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, 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.

## **Experienced Consultants**

The City has retained Shields Oblatz Johnsen, Inc. (SOJ) as its Project Manager/Owner's Representative. SOJ will coordinate the full project, starting with assembling the Project Team (architectural design team and CM/GC), and then coordinating the design, public approvals and permits, construction, and occupancy of the completed project,. SOJ has substantial experience using CM/GC for project delivery. SOJ has recently successfully overseen the use of CM/GC to add a two-story, 14,500 square foot addition to the back of the 102 year old Carnegie Library located in Oregon City. SOJ advises that it believes CM/CG is the best available procurement method to achieve the City's desired goals for Ledding Library.

## **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, the procurement will be advertised, competition will be encouraged, award will be made on specified criteria and an opportunity to protest will be available. In short, it is unlikely to encourage favoritism or diminish competition in the future. Again, the CM/GC will be required to bid all major subcontracts.

### **Cost Savings**

During the design phase prior to material and subcontractor selection, the CM/GC will provide value engineering and update cost estimate information. This cost estimating 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.

In addition, the CM/GC process has been recently used by Oregon City to renovate and expand its historic library on time and within the available funds. In short, CM/GC has a proven track record of achieving successful results in Projects of this nature.

## **Summary**

After careful consideration, the City 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 Ledding Library renovation and expansion.

The project is technically complex due to its integration of a substantial expansion with the older building and the special purpose of this public building. The level of challenge, available budget and fast track nature will require a level of management and flexibility above that ordinarily available with traditional competitive low-bid public contracting. There are multiple firms with the experience and expertise in this type of work, so it is anticipated that there will be multiple proposals submitted on the project. The CM/GC process offers the best opportunity for successfully managing the construction on a budget and on time.

**Exhibit D**



**CITY OF MILWAUKIE**

*"Dogwood City of the West"*

**Resolution No.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ACTING AS THE LOCAL CONTRACT REVIEW BOARD, ADOPTING FINDINGS TO ALLOW ALTERNATIVE CONTRACTING FOR THE LEDDING LIBRARY RENOVATION AND EXPANSION PROJECT.**

**WHEREAS**, the City of Milwaukie adopted Public Contracting Rules by resolution 101-2011 and amended by resolution 82-2013; and

**WHEREAS**, The Construction Manager/General Contractor form of alternative contracting is allowed per Public Contracting Rule 10.105.A; and

**WHEREAS**, the use of Construction Manager/General Contractor for the Ledding Library Renovation and Expansion Project complies with Public Contracting Rule 10.105.A; and

**Now, Therefore, be it Resolved** that the City Council, acting as the local contract review board for the City of Milwaukie hereby adopts findings attached as Exhibit C pursuant to the authority granted the Board by Milwaukie City Code Chapter 3.05, local Contractor Review Board, to allow the use of the Construction Manager/General Contractor alternative contracting for the Ledding Library Renovation and Expansion project.

Introduced and adopted by the City Council on November 1, 2016.

This resolution is effective on November 1, 2016.

---

Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:  
Jordan Ramis PC

---

Pat DuVal, City Recorder

---

City Attorney