

Mosier Center Joint Use Facility Staff Report Findings in Support of CM/GC Contracting Method

<u>Staff:</u>	Colleen Coleman, City Manager
<u>Agenda Title:</u>	Mosier Center Joint Use Facility (JUF) – Findings in Support of CM/GC Contracting Method
<u>Agenda Action:</u>	October 2, 2019 Public Hearing - Resolution to Adopt Findings in Support of CM/GC Solicitation
<u>Fiscal Impact:</u>	N/A
<u>Staff Recommendation:</u>	Hear public comment and adopt resolution approving findings in support of CM/GC procurement as alternative project delivery method.

Oregon procurement law generally requires all public improvement projects to be procured by competitive bid. The use of alternative contracting methods, such as Construction Manager/General Contractor (CM/GC), is authorized under ORS Chapter 279C, which allows Local Contract Review Boards to exempt certain contracts from competitive public bidding under strict procedural safeguards. In order to proceed with soliciting a CM/GC contractor, the Local Contract Review Board (which in this case is the JUF Committee) must first adopt findings, defined by statute, to justify exempting the project from competitive bidding and using an alternative procurement process.

On September 18, 2019, in accordance with ORS 279C.355(5)(b)-(c), Notice of Public Hearing was published in the Daily Journal of Commerce and on the City of Mosier and Mosier Center websites for the purpose of taking public comment on the draft findings for an exemption from the competitive bidding requirement.

At the public hearing October 2, 2019, 5:00 pm at the Mosier Senior Center, the JUF Committee will accept any public testimony and comment, and then consider adopting the required findings via resolution to authorize the CM/GC procurement.

This staff report with draft findings for public review provides the required information to proceed with the CM/GC procurement in compliance with ORS Chapter 279C and the Model Rules adopted by the State Attorney General governing the CM/GC process, as required by ORS 279C.337(1). Approval of these findings will allow the drafting and publishing of the solicitation documents, including the RFP and the proposed contract, to proceed. The resulting contract will include provisions to implement project goals for controlling costs, such as the requirement to negotiate a guaranteed maximum price (GMP) and requirements for competitive bidding of certain subcontractor work. The contract will also allow the JUF Committee to put the project package out for competitive bids if a satisfactory GMP is unable to be negotiated.

FINDINGS IN SUPPORT OF CM/GC SOLICITATION AS ALTERNATIVE PROJECT DELIVERY METHOD

Primary Findings:

1. **The exemption is unlikely to encourage favoritism in awarding public improvement contracts or substantially diminish competition for public improvement contracts.**
Finding: The exemption is unlikely to encourage favoritism nor substantially diminish competition because the solicitation will be advertised in a statewide trade newspaper, the Daily Journal of Commerce, and will be open to all qualified contractors. In selecting the primary contractor, the evaluation criteria will include important qualification factors such as the contractor's experience in performing this type of work in similar projects and under similar constraints. In addition, the selected contractor will be required to competitively bid out all scopes of subcontractor work with at least 3 bids in each category.
2. **The exemption will result in substantial cost savings and other substantial benefits to the contracting agencies or the public.**
Finding: The exemption will result in substantial cost savings and other substantial benefits to the City/Fire District or the public due to the CM/GC contractor providing personal services during an early phase of the project at design development and throughout project design, with building systems design review, accurate cost and escalation estimation, better project understanding, closer relationships with others on the development team, and knowledge of building source materials supply and availability for constructing a Net Zero public improvement as incentivized by Energy Trust of Oregon and envisioned by Mosier Fire District and City Council, as well as Governor Kate Brown's Executive Order No. 17-20.

Additional Findings and Justifications for Primary Findings:

3. **How many persons are available to bid**
Finding: There is a current lack of contractor availability in Wasco County and the Columbia Gorge. The CM/GC procurement and contracting method would widen the reach to available contractors to bid for this project. Mosier Center's extended timeline of bringing the contractor on board for personal services from schematics through fundraising and final design prior to construction, the contractor would have over a year to plan their schedule, as opposed to traditional design-bid-build, which would require contractors be available for immediate construction implementation, once the bid process is complete.
4. **The construction budget and the projected operating costs for the completed public improvement.**
Finding: The construction budget and the projected operating costs for the completed public improvement project have not been finalized. We will need the CM/GC contractor on board to assist with determining costs of construction and operations.
5. **Public benefits that may result from granting the exemption**
Finding: Public benefits that may result from granting the exemption include fewer change orders during construction due to the CM/GC's role in verification of project design and specification of building materials, which should result in lowering risk to public fundraising and overall project variability.
6. **Whether value engineering techniques may decrease the cost of the public improvement.**
Finding: Value engineering techniques may decrease the cost of the public improvement, as mentioned above in Finding #5.
7. **The cost and availability of specialized expertise that is necessary for the public improvement.**

Finding: The cost and availability of specialized expertise that is necessary for the public improvement will come from members of the CM/GC team and incentives from the Energy Trust of Oregon to reach Net Zero Construction.

8. Any likely increases in public safety

Finding: Increases in public safety will come from the Minarik/TCA architecture team working closely with the CM/GC contractor from design development thru construction to identify design & construction methods and specify materials appropriate to a combined public safety facility containing a fire station, city hall, and community center.

9. Whether granting the exemption may reduce risks to the contracting agency or the public that are related to the public improvement.

Finding: Granting the exemption may reduce risks to the contracting agency and the public due to early involvement of the contractor with complex design elements of a Net Zero building, uniquely relevant to this public improvement.

10. Whether granting the exemption will affect the sources of funding for the public improvement.

Finding: Granting the exemption will not affect the sources of funding for the public improvement, as inclusion of the CM/GC contract has been identified in both the Fire District and City of Mosier early funding for the project; in fact, including the CMGC contractor will assist the JUF committee with an accurate estimate of building systems design and construction, life cycle costs, and escalation to utilize for ongoing fundraising efforts.

11. 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.

Finding: 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 due to early knowledge of building size, design requirements, materials, and construction cost, therefore having the ability to track availability of subconsultants and source materials and fixtures locally and in advance.

12. Whether granting the exemption will better enable the contracting agency to address the size and technical complexity of the public improvement.

Finding: Granting the exemption will better enable the contracting agency to address the size and technical complexity of the public improvement due to early involvement in the Energy Trust of Oregon Path to Net Zero process as well as design review to identify the most effective/efficient methods for a project of this genre.

13. Whether the public improvement involves new construction or renovates or remodels and existing structure.

Finding: This public improvement project involves new construction along Hwy 30/Historic Columbia River Hwy in downtown Mosier, OR.

14. Whether the public improvement will be occupied or unoccupied during construction

Finding: This public improvement will be unoccupied during construction.

15. Whether the public improvement will require a single phase of construction work or multiple phases of construction work to address specific project conditions.

Finding: It has not yet been determined whether this public improvement will require a single phase of construction or multiple phases to address specific project conditions; however, design is expected to occur in multiple phases integrated with project fundraising: schematic design/conceptual cost estimate; fundraising; design development; final design; and construction drawings. The CM/GC process will place the coordination responsibility on the primary CM/GC contractor in the event of multiple construction phases, maximizing efficiencies for coordination needs in such occurrence.

- 16. Whether the contracting agency has retained under contract, and will use contracting 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 will use to award the public improvement contract and to help negotiate, administer, and enforce the terms of the public improvement contract.**

Finding: The contracting agency (City of Mosier) will use contracting agency personnel, consultants, and legal counsel that have necessary expertise and substantial experience in the CM/GC alternative contracting method to assist in developing the CM/GC contracting method that the City of Mosier will use to award the public improvement contract and to help negotiate, administer, and enforce the terms of the public improvement contract.