

## MULTNOMAH COUNTY, OREGON

### CM/GC SERVICES FOR THE EARTHQUAKE READY BURNSIDE BRIDGE PROJECT

Multnomah County intends to secure services of a Construction Manager/General Contractor (CM/GC) for pre-construction services related to the design and construction of a replacement for the Burnside Bridge in Portland, Oregon, as part of the Earthquake Ready Burnside Project. A public hearing for the purpose of taking comments on the County's draft findings for an Exemption from the Competitive Bidding requirement will be held on January 20, 2022. A detailed Board Agenda may be found at:

[http://multnomah.granicus.com/ViewPublisher.php?view\\_id=3](http://multnomah.granicus.com/ViewPublisher.php?view_id=3)

At this public hearing, after an opportunity for receipt of comments, the Board will consider adoption of the draft findings and approval of the proposed alternative contracting method. The draft findings may be found on the County's Bids and Opportunities website:

<https://bids.sciquest.com/apps/Router/PublicEvent?CustomerOrg=Multnomah>

#### Multnomah County Purchasing

Published: January 4, 2022

# EXHIBIT 1

## FINDINGS OF FACT AND CONCLUSIONS SUPPORTING EXEMPTION UNDER ORS 279C.335(2) FROM DESIGN/BID/BUILD PROCUREMENT METHOD AND APPROVAL OF AN ALTERNATIVE PROCUREMENT ALLOWING THE USE OF THE CONSTRUCTION MANAGER/GENERAL CONTRACTOR (CM/GC) COMPETITIVE SELECTION PROCESS AND CONTRACTING METHOD FOR THE EARTHQUAKE READY BURNSIDE BRIDGE PROJECT

### **I. BACKGROUND**

#### **A. Project Description – Earthquake Ready Burnside Bridge Project**

The existing Burnside Bridge is 95 years old and carries approximately 35,000 vehicles, three bus lines, and over 2,000 pedestrians and bicyclists a day. Additionally, the space below the bridge is teeming with urban life and activity, including nine interstate lanes, three railroad tracks, two Max light-rail lines, a world-renowned skate park, the Eastbank Esplanade, Portland Saturday Market and Tom McCall Waterfront Park. The bridge serves as a vital link across the Willamette River along the Burnside Corridor, one of our region's Priority 1 emergency transportation routes extending 20 miles from Beaverton to Gresham.

In 2015, Multnomah County (the County) completed its 20-year Willamette River Bridges Capital Improvement Plan (CIP). This thorough and comprehensive look at the County's six bridges determined the Burnside Bridge is a top priority for the County due to its designation as the only County owned emergency transportation route across the Willamette River in downtown Portland. As currently built, the bridge is not expected to withstand a major seismic event. The County is taking proactive steps to improve the bridge to meet the region's needs for seismic resiliency (the Project or EQRB Project).

The County is currently in the process of completing an Environmental Impact Statement (EIS) for the Project. The Preferred Alternative was identified in the Draft EIS in early 2021. A Supplemental Draft EIS documenting potential refinements to the Preferred Alternative is to be published in spring 2022. A Final EIS and Record of Decision is anticipated to be published by winter 2022.

#### **B. The Construction Manager/General Contractor Project Delivery Method**

The Construction Manager/General Contractor (CM/GC) method is a modern construction delivery method used by both public and private organizations. In the CM/GC method, the Owner (Multnomah County) hires a Design and Engineering firm to design a project, and also hires a CM/GC contractor during the design phase to provide construction expertise to the Owner and the design firm. The County has hired an Owner's Representative consultant team of management, design and construction experts to provide strategy, planning, and management oversight to support the County's successful project delivery. The Project Team is made up of the Owner, Owner's Representative, Designer, and CM/GC. This Team continues throughout the duration of the Project.

The CM/GC negotiates a Guaranteed Maximum Price (GMP) with the owner for an agreed-upon scope of work, generally near the completion of design. During construction, the CM/GC is responsible for self-performing an agreed percentage of the work and subcontracts out the remaining work elements.

In general, the expected benefits of this delivery method are:

- Earlier price certainty
- Cost savings due to early contractor involvement in the design phase
- Higher quality construction documents based on the contractor's construction approach
- Faster completion of the project
- Greater flexibility for adapting to change
- Enhanced community mitigations and diversity participation

The CM/GC process, as an alternative to the competitive design/bid/build process, is becoming a more common approach for certain types of construction projects by public agencies within Oregon and, indeed, was approved by the Board for use and successfully implemented on the Sellwood Bridge Replacement Project, the Broadway Bridge Rall Wheel Project, the new Central Courthouse and the Gladys McCoy Health Department Headquarters building. The Oregon Public Contracting Coalition (PCC), a diverse group of government and non-government professionals experienced in public contracting, developed a guide for those public agencies considering the CM/GC process. Some recommendations contained in the document were incorporated into ORS Chapter 279C by the legislature. A publication called the Oregon Public Contracting Coalition Guide to CM/GC Contracting (the Guide), written by the PCC and the Construction Engineering Management Program, Department of Civil, Construction, and Environmental Engineering, at Oregon State University, February 2002, is available on-line at:

<https://documents.pub/document/oregon-public-contracting-coalition-guide-to-public-contracting-coalition-guide.html>

The Guide suggests that the CM/GC method is most likely to benefit the Owner for projects that:

- are high risk,
- are technically complex,
- have unusual site conditions,
- have schedule constraints,
- require complex phasing schemes,
- have budget limitations,
- may realize cost savings resulting from value engineering, and
- are greater than \$2 million in cost.

The Oregon legislature enacted 2013 Oregon Laws, Chapter 522 (SB 254), which established new procedure, under ORS 279C.335, for exempting public contracts for CM/GC delivery methods from traditional bidding requirements. On July 1, 2014, the Oregon Department of Justice adopted interim rules amending the Attorney General's Model Rules in OAR Chapter 137, Division 049, to implement the new law, and adopted them as final rules under OAR 137-049-0690 on February 3, 2015. The findings of fact and conclusions in this Exhibit 1 have been drafted in compliance with ORS 279A.065(3), ORS 279C.335(2), ORS 279C.337, and the Model Rules in OAR 137-049-0690, as adopted on February 3, 2015.

The CM/GC procurement and contracting method is proposed because very few design firms and contractors have significant experience with design and construction of seismically resilient, long span and movable bridges in a constrained work area. The EQRB Project is technically complex with highly specialized design and construction needs (in water work, construction over nine interstate lanes, three railroad tracks, two Max light-rail lines, the Eastbank Esplanade, Portland Saturday Market and Tom McCall Waterfront Park.) The safety aspects of designing and working over water, the Interstate highway, light-rail lines and public activity spaces require the expertise of firms qualified from past work on projects of similar scale and complexity. The design firm and

the CM/GC should have past experience with the United States Coast Guard, Oregon Department of Transportation (ODOT), City of Portland and other permitting agencies that will be involved in this Project. The ability to manage these relationships is key to a successful project moving forward on schedule.

The EQRB Project is currently in the pre-procurement stage.

The schedule currently envisioned by the County for the EQRB Project is reasonable and not overly aggressive.

The project schedule currently includes the following major milestones:

- |  |                           |
|--|---------------------------|
| ● Complete CM/GC and Designer procurements         | Fall 2022                 |
| ● Design   | Winter 2022 - Spring 2025 |
| ● Early work packages                              | TBD                       |
| ● Finalize Agreement of GMP                        | Spring 2025               |
| ● Construction Start                               | Spring 2025               |
| ● Construction Completion & Bridge Open to traffic | Spring 2030               |

A major schedule consideration is the City of Portland's land use permitting and overall permitting process and requirements.

## **II. FINDINGS REGARDING COMPETITION**

**ORS 279C.335 (2) requires that an agency make certain findings as a part of exempting certain public contracts or classes of public contracts from competitive bidding. ORS 279C.335 (2) (a) requires an agency to find that: “It is unlikely that such exemption will encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts.”**

The County's procedures for procurement of the CM/GC contractor will encourage competition. The procurement will be advertised in the Daily Journal of Commerce. At the same time, the County anticipates that a limited pool of contractors will compete for this contract due to the highly specialized design and construction needs of the Project. Moreover, for the Project to be successful, the County needs a highly qualified contractor to perform this work.

The CM/GC contractor will be selected through the County's standard Request for Proposal (RFP) process that is open and competitive. The RFP specifies how a proposal should be structured and what the potential contractors should submit. The selection criteria are clearly stated in the RFP and will likely include:

- Proposer Qualifications
- Proposer Experience
- Organization and Key Personnel
- Project Approach
- Pre-Construction Services Fee
- CM/GC Fee Percentage
- Sustainable Practices
- Workforce Training and Diversity

After the proposals are submitted, the evaluation process will include the following steps:

- a) Proposals will be evaluated by an Evaluation Panel consisting of at least three County and non-County professionals well acquainted with the EQRB Project.
- b) Proposals will be checked for completeness and compliance with the minimum requirements listed in the RFP. Complete and responsive proposals will then be evaluated under the criteria stated within the RFP.
- c) Members of the Evaluation Panel will use the County's ERP Systems to independently score the proposals. The independent scores of each panel member will be combined into overall scores for each proposer.
- d) The Evaluation Panel will identify the highest scoring proposers in the competitive range. If there is a clear choice at this stage, negotiation with that firm will be initiated. If there are multiple competitive proposals those firms will be invited to be interviewed.
- e) The Evaluation Panel will conduct interviews with the short-listed proposers.
- f) The Evaluation Panel will score the interviews, and these scores will be combined with the written proposal scores to yield a total score for each of the short-listed proposers. Based upon these final scores, the Evaluation Panel will rank the proposers and provide an award recommendation.
- g) Upon expiration of the mandatory award protest period, the County will seek to enter into a contract with the top ranked firm. If not successful, the County will seek to enter into a contract with the next highest ranked firm. This process will continue until the County has entered into a contract with a qualified CM/GC proposer.

**Given the above procurement process, County staff finds that selecting a CM/GC contractor pursuant to the exemption is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts.**

### **III. FINDINGS REGARDING SUBSTANTIAL COST SAVINGS AND OTHER SUBSTANTIAL BENEFITS**

ORS 279C.335 (2) requires that a public agency make certain findings as part of exempting certain public contracts or classes of public contracts from competitive bidding. ORS 279C.335 (2) (b) requires an agency to find that: “*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 (3) (b), to the contracting agency or the public.*”

ORS 279C.335(2)(b) further provides that: “*...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.”*

The EQRB Project is a technically complex project with complicated construction requirements. Technical complexities include:

- Traffic management and phasing to minimize impacts to bike, pedestrian, vehicular, and transit users due to closing the bridge during construction and detouring traffic to other routes

- Site logistics and construction means and methods
- Installation of the East side superstructure over nine interstate lanes and three railroad tracks and installation of the West side superstructure over two Max light-rail lines and Tom McCall Waterfront Park
- Control of the construction to limit concerns of neighboring building owners, occupants and visitors
- In-water and surrounding environmental permit compliance
- Complexity of over-water work, and work from barges or other in-water platforms, including construction of large diameter drilled shafts in the river
- Unique construction methods for movable bridge structures, including assembling a bridge to extremely tight tolerances
- Complex permitting process
- Maintaining an active navigation channel during construction
- High degree of interagency coordination

The Northwest Region of the United States only has a few, very qualified local contractors with the experience, bonding capacity, past expertise and the skill set to work on a project of this magnitude and nature. The size of the Project has the potential to attract national contractors from other regions of the country to consider bidding on the Project.

CM/GC does not include as direct an element of cost competition during the selection process as does the traditional design/bid/build (low bid) method. There is typically not enough project design completed at the time of selection of the CM/GC for a firm bid, and the CM/GC would be hired prior to any design being completed. The CM/GC's proposed fee percentage will be a factor in their selection. Pricing for the construction packages is negotiated.

On a technically complex project with an aggressive schedule, CM/GC offers several benefits that could lead to a lower overall project cost. The design incorporates input from the contractor on cost effective and efficient construction methods. The contractors will use their technical skills, as well as knowledge of available equipment and staff and preferred order of completion. The ongoing input from the owner, designer, and contractor into the design can result in fewer design errors or omissions. Knowledgeable cost estimating and strong auditing from the owner and owner-hired independent experts can provide a check against inflated prices through negotiations when work packages are assigned. Additionally, the owner can reserve the right to reject the work package price if the negotiation is not successful and use the traditional low bid process to select a contractor for that work instead. The CM/GC delivery method also allows for early work packages which can reduce overall project cost by managing effects of inflation. Early work packages can include material procurement and fabrication.

An area where CM/GC can potentially provide a major benefit on a Project like the EQRB Project is in the avoidance of costly changes. Areas of uncertainty can be identified early in the Project and managed proactively through such measures as additional investigation, and appropriate schedule and/or cost contingencies. These factors combine to suggest that CM/GC will yield a lower total price at completion than the other methods on a complex, schedule constrained Project like this one.

While it may be impossible to predict exactly how much lower the cost will be, there is some historical data: The Oregon Department of Corrections has significant experience with the CM/GC process and has identified achieved savings of 5% of the construction costs. On a Project of this size (currently estimated at \$575 to 675 million) this would imply a cost savings of \$29 to 34 million over traditional project delivery methods.

**The County finds that awarding of this contract with its unique challenges and circumstances pursuant to the exemption will result in cost savings and other substantial benefits to the County.**

The following section presents County staff findings relative to each of the factors required to be addressed by ORS 279C.335(2)(b) (A) through (N), with captions edited for space.

#### **A. How Many Persons are available to Bid**

The EQRB Project is a large budget, technically complex Project with complex construction requirements and difficult site conditions. Staging areas and contractor support areas will be at a minimum, because there are very few open areas with access for these purposes. Technical complexities include construction of large diameter deep foundations in the river, installation of the movable bridge counterweights, installation of the East side superstructure over nine interstate lanes and three railroad tracks, and installation of the West side superstructure over two Max light-rail lines and Tom McCall Waterfront Park.

To get a better idea of how many firms are available locally and nationally to do this work, the project team reached out to bridge construction firms that have appropriate expertise. Based on this research the County staff believe that there are approximately ten (10) firms who would be qualified to do the Project, and it is reasonable to anticipate between three to six of those firms would pursue the Project.

Using the CM/GC rather than the Design/Bid/Build method of contracting will enable the County to only select a Contractor qualified to perform the work.

#### **B. Construction Budget and Projected Operating Costs**

The construction budget is currently estimated at \$575 to 675 million. Current pre-design phase of the Project utilizes 100% County Funds. County funds for pre-design are in the Transportation Division FY2021 budget. Federal funding is anticipated for construction.

The CM/GC delivery method offers Multnomah County major advantages over other delivery methods in achieving delivery of the completed Project within the available funding. Because the CM/GC provides constructability review of design documents, cost estimating, value engineering, and review of design options throughout the design development process, the 100% final design on which construction pricing will be based will have been thoroughly reviewed from a cost basis. Design and construction will be managed to meet the unique challenges of this Project. Risk will be mitigated and allocated most cost-effectively. All pricing will be solicited competitively, or negotiated, with the objective of putting Multnomah County in the best position to deliver the Project within budget. Upon completion, ongoing operating costs will be included in the Multnomah County Transportation Division annual budgets.

#### **C. Public Benefits**

The EQRB Project is expected to provide long-term public benefits including:

- Bridge built to exceed current seismic standards
- Updated lift mechanisms for increased reliability and decreased maintenance
- Dependable emergency route connecting east and west Multnomah County across the Willamette River
- Increased space dedicated for safe and comfortable bicycling and walking

When compared to the typical low bid method of project delivery, the CM/GC method provides opportunities to expedite the schedule and improve overall project quality, thereby reducing the overall impacts to the public during construction. Early work packages can be contracted to allow for schedule critical work to proceed ahead of complete design. The CM/GC is involved in the community engagement, design and ongoing review of contract documents, which improves the quality of the plans and specifications. Early stage CM/GC involvement also offers greater opportunity to mitigate impacts to the community and optimize diverse participation through community briefings and outreach that involve all key team members during planning and design.

In the County's proposed CM/GC approach, the construction contractor will be selected at or near the same time as the engineering and design team(s), and before or shortly after design work begins. This will allow the contractor to have input into the design and constructability and assist the County and designer in structuring the Project for an optimal schedule. In addition, the contractor can start work on elements of the Project that can be designed early if required by long procurement lead times. The ability to authorize construction work in packages that are subsets of the overall Project allows significant scheduling flexibility and creates opportunity to complete the Project in the shortest duration.

The CM/GC process will benefit the public by placing the County in the best position to mitigate community impacts, optimize diverse participation, deliver required features, reduce costs, expedite construction, and improve quality.

#### **D. Value Engineering**

Value Engineering (VE) is encouraged by Multnomah County and has resulted in both initial savings as well as long-term savings for many other County projects. In the CM/GC method, the relationship of the owner, construction contractor, and designer fosters a team approach to value engineering. The contractor, for example, can suggest ideas throughout the design development process. Multiple options for high cost or high impact items, such as construction methods, optimal material choices, environmental permitting, and local design requirements can be analyzed at various times during the Project to evaluate initial construction costs as well as life cycle costs and benefits. Under the traditional design/bid/build method, VE typically occurs just once during the design phase. Under the CM/GC method, VE is a continuous, iterative process that provides "real time" feedback to the owner and design team to provide best value savings for the Project.

With design/bid/build, savings from cost-cutting measures suggested by the construction contractor are divided between Multnomah County and the contractor. Under CM/GC with VE, those savings accrue 100% to the County, or, at the County's discretion, may be approved as a cost-reduction proposal and shared with the contractor.

#### **E. The Cost and Availability of Specialized Expertise Necessary for the Project**

This Project will require a construction team with specialized expertise and equipment due to the numerous complexities listed briefly here:

- Traffic management and phasing to minimize impacts to roadway traffic on Burnside St., Couch St. and (other streets)
- Site logistics and construction means and methods
- Installation of the East side superstructure over nine interstate lanes and three railroad tracks and installation of the West side superstructure over two Max light-rail lines and Tom McCall Waterfront Park

- Control of the construction to limit concerns of neighboring building owners, occupants and visitors
- Complexity of over-water work, and work from barges or other in-water platforms including construction of large diameter drilled shafts in the river
- Unique construction methods for movable bridge structures
- Complex permitting process
- Maintaining an active navigation channel during construction
- High degree of interagency coordination

The CM/GC selection process is based on qualifications as well as certain preconstruction and construction fees with price as a significant factor. The County will evaluate proposers on such factors as:

- Proposer Qualifications
- Proposer Experience
- Organization and Key Personnel
- Project Approach
- Pre-Construction Services Fee
- CM/GC Fee Percentage
- Sustainable Practices
- Workforce Training and Diversity

A low bid process does not provide the opportunity to obtain the most qualified contractor with the specialized expertise needed for the Project. The CM/GC process allows the County to select a contractor based on qualifications in design input and construction of the Project, instead of selecting the low bidder on a completed design, and, thus, to acquire the specialized expertise needed for providing design input, design assist constructability reviews, quality assurance, site logistics planning, and value engineering.

## **F. Public Safety**

Safe and efficient movement of surface street and river traffic must be maintained around the construction site on the EQRB Project during construction. All of the local street systems are needed at various parts of the day for traffic entering and leaving downtown during normal working and peak commuting hours. Important users include pedestrian and bicycle traffic at various times of day. It is crucial that all work be highly coordinated with the public to avoid unnecessary traffic delays. At the same time, an extended closure of the bridge ramps or surface streets to these surface users, i.e. vehicles, bicycles and pedestrians, can be disruptive and should in most instances be avoided, if possible. Maintaining safe movement of roadway, bicycle and pedestrian traffic around the construction site and to and from the bridge will require a contractor dedicated to meeting all of those goals in addition to the primary construction tasks.

The CM/GC process may reduce safety risks by:

- screening potential contractors based on their safety record and approach;
- providing the contractor with clear upfront knowledge of the Project constraints;
- cooperatively planning the work sequencing with input from the owner, designer, and contractor from a public safety perspective; and
- encouraging ongoing safety input from the entire Project Team.

The CM/GC selection process values proven safety performance and builds upon it, providing enhanced opportunity for the County to optimize public safety implementation during construction.

## **G. Risk Reduction to County**

This Project is technically complex and will require that the selected CM/GC plan and execute difficult operations. Once again the site logistics and material/and labor coordination will be critical to the success of the Project. The CM/GC method will facilitate early identification and mitigation of risks by leveraging the expertise of the CM/GC in addition to the County and designer.

Because the CM/GC method of project delivery allows the County to select the contractor based largely on staff qualifications and demonstrated success on past projects, the County can reduce risk to the EQRB Project by selecting a contractor with demonstrated expertise in constructing long span and moveable bridges in a complex urban environment.

## **H. Impact on Project Funding Sources**

Using the CM/GC method of project contracting and delivery will not impact the funding of the Project.

## **I. Market Conditions**

The CM/GC process enables the County to better manage the negative impact of inflationary market conditions in several ways:

- Facilitate the early purchase of certain project elements (such as large steel fabrications if appropriate) to take advantage of market prices.
- Start construction sooner than the traditional method of contracting would allow because of the ability to start construction of early schedule tasks before other elements of the Project are designed;
- Deliver the Project in a shorter overall time than by the traditional method, reducing overhead costs.

## **J. Technical Complexity**

The EQRB Project is technically complex. Areas of technical complexity include:

- Traffic management and phasing to minimize impacts to roadway traffic on Burnside St., Couch St. and (other streets)
- Site logistics and construction means and methods
- Installation of the East side superstructure over nine interstate lanes and three railroad tracks and installation of the West side superstructure over two Max light-rail lines and Tom McCall Waterfront Park
- Control of the construction to limit concerns of neighboring building owners, occupants and visitors
- Complexity of over-water work, and work from barges or other in-water platforms including construction of large diameter drilled shafts in the river.
- Unique construction methods for movable bridge structures.
- Complex permitting process
- Maintaining an active navigation channel during construction
- High degree of interagency coordination

With the CM/GC delivery method, the contractor is selected based significantly on qualifications. As the design is developed, the County and the Project will benefit from qualified contractor input regarding complicated design, construction and permitting issues. In addition, since the contractor is made aware of complicated technical issues during the design process, the risks are better identified, understood, and managed. The contractor is involved in solving the problems proactively. The likelihood of successfully resolving technical complexities without undesirable

schedule and cost impacts is enhanced. Because traditional design/bid/build delivery does not allow for designer-owner-contractor interaction during design development, it provides the County less opportunity to resolve technical issues most effectively.

#### **K. New construction or renovation?**

The recommendation to fully replace the Burnside Bridge was made in the Draft Environmental Impact Statement in early 2021.

#### **L. Occupied or unoccupied during construction?**

The bridge will require complete closure for a majority of the estimated 4-5 year construction period. 24-hour a day detour routes will be established for all modes of traffic using the existing street network (vehicles, buses, bicycles and pedestrians).

#### **M. Is the Construction Phased?**

The County would like to use early work packages, so there would be phased work.

#### **N. Project Staff Qualifications**

The County has Department Staff and the County Attorney's Office, as well as consultants and outside legal counsel retained under contract, that have the necessary expertise and substantial experience in alternative contracting methods (including the CM/GC method) and will use the County Staff, County Attorneys, consultants and outside legal counsel to assist in developing the proposed CM/GC contracting method and to help negotiate, administer and enforce the terms of the pending public improvement contract.

### **IV. CONCLUSION**

In accordance with ORS 279C, Multnomah County finds that:

Regarding Competition:

Given the above procurement process, County staff finds that selecting a CM/GC contractor pursuant to the exemption is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts.

Regarding Substantial Cost Savings and Other Substantial Benefits:

The County staff finds more specifically for ORS 279C.335(2)(b) Items A-N identified in Section III as follows:

- A. The EQRB Project is a technically complex project, and, therefore, there is a limited contractor base qualified to plan and carry out the Project;
- B. The CM/GC delivery method offers Multnomah County major advantages over other delivery methods in achieving delivery of the Project within the available funding.
- C. The CM/GC process will benefit the public by placing the County in the best position to mitigate community impacts, optimize diverse participation, deliver required features, expedite construction, and improve quality.
- D. The CM/GC process facilitates and encourages value engineering. Because the value engineering happens during the design phase prior to pricing the work, the benefits accrue 100% to the County.

- E. The CM/GC process allows the County to select a contractor based on qualifications to acquire the specialized expertise required to successfully construct the technically complex and difficult to construct EQRB Project.
- F. The CM/GC selection process values proven safety performance and builds upon it, providing enhanced opportunity for the County to optimize public safety implementation during construction.
- G. The CM/GC method of project delivery allows the County to select the contractor based on staff qualifications and demonstrated success on past projects. The County can reduce risk to the EQRB Project by selecting a contractor with demonstrated expertise in constructing long span and moveable bridges in a complex urban environment.
- H. Using the CM/GC method of project contracting and delivery will not impact the funding of the Project.
- I. The CM/GC process enables the County to better manage the negative impact of inflationary market conditions.
- J. As design is developed, the County will benefit from qualified contractor input regarding complicated design, construction and permitting issues. In addition, since the contractor is made aware of complicated technical issues during the design process, the risks are better identified, understood, and managed by the appropriate party to deal with each specific risk.
- K. The Project will replace the existing Burnside Bridge with a new structure located in the same alignment.
- L. The County will work to mitigate the disruption to roadway users (cars, trucks and buses), and sidewalk users (bicyclists, pedestrians, and people with disabilities). As stated previously the CM/GC will prepare a plan and provide all services or equipment necessary to minimize any risk to the public or the transportation pathways that are affected by the construction of the EQRB Project.
- M. The county would like to use early work packages, so there would be phased work.
- N. The County will use a combination of in-house staff, attorneys, and hired consultants to secure the expertise required by ORS 279C to successfully prosecute the CM/GC contract.

Based on the findings stated in the beginning of Section III on page 6; and the findings for Items A – N above, the County is confident that awarding of this contract with its unique challenges and circumstances pursuant to the exemption will likely result in cost savings to the County and increased benefit to the public.

County Staff recommends that the CM/GC delivery method be approved and implemented for the EQRB Project. The CM/GC delivery method puts Multnomah County in the best position to meet budget, deliver the Project at least cost, minimize public impacts, achieve needed quality, acquire the special expertise required to successfully construct this unique Project, and to deliver the Project safely. In addition, as described above, the use of CM/GC contracting methodology, when coupled with appropriate competitive procedures for selection of the CM/GC and competitive procurements of materials and subcontractor services, provides the County with solid risk mitigation and cost savings opportunities on the EQRB Project.