

**DRAFT FINDINGS OF FACT FOR  
ALTERNATIVE CONTRACTING  
PROCEDURE CM/GC CONSTRUCTION  
CONTRACT  
Beaverton Academy of Science and  
Engineering (BASE) CTE Program  
Upgrades (RFP 20-0014)**

(a) *BSD Staff finds that this alternate contracting procedure is unlikely to encourage favoritism in awarding public improvement contracts or substantially diminish competition for public improvement contracts.*

If these findings are adopted and the exemption is approved, the CM/GC will be selected through an open, public, competitive request for proposals (RFP) process. Pursuant to ORS 279C.360, a CM/GC solicitation will be advertised in the Daily Journal of Commerce, the Oregon Procurement Information Network, and the Beaverton School District procurement webpage in order to attract competitive proposals. The CM/GC proposals and interviews will be rated based on a predetermined list of criteria as required by ORS 279C.337 and the Attorney General's Model Contract Rules. The District will enter into a contract with the highest-ranking firm. Further, the CM / GC contract template requires the CM/GC to abide by competitive bidding requirements subject to District approval for selecting any sub-contractors.

(b) *BSD Staff finds that awarding a public improvement contract for this project through the CM/GC method will likely result in substantial cost savings and other substantial benefits to the District.*

**In making this finding, staff have considered the type, cost and amount of the contract and, to the extent applicable to the contract, the following:**

- A. **Findings related to how many persons are available to bid:** CM / GC is a widely used delivery platform in this region and many firms are capable of delivering a project through this method. Therefore, Staff finds that granting this Alternative contracting procedure will not unreasonably limit the number of firms available to bid, since procurement will be through a publicly-advertised request for proposals.
- B. **Findings related to the construction budget and the projected operating costs for the completed public improvement:** Staff finds that the ability to select firms based on the firm's performance history will positively affect the project outcome as it relates to cost by providing feedback on the design development phase and participating in the construction document phase of the design process. With the CM/GC participating in these phases, they will be able to offer suggestions for improvement and make recommendations that will reduce costs. With the benefit of this knowledge, the CM/GC will also be able to guarantee a maximum price the District will pay to construct the project, which may result in savings accruing to the District.
- C. **Findings related to public benefits that may result from granting the exemption:** Staff finds that the ability to select firms based on the firm's performance history will

significantly affect the project outcome as it relates to schedule for this project. The District's Facilities Development Department is working diligently to maximize the reimbursement and educational benefit received from the current Measure 98 grant funding cycle. As we approach the reimbursement deadline, there is an even greater need to assure that the final projects (such as this one) are completed in a timely manner. Through the early construction mechanism and ability to execute a GMP (construction contract) prior to the end of the design process, CM/GC enables the District to complete the BASE CTE project faster than the traditional Design-Bid Build model would allow. This allows the District to complete this project at a greatly reduced risk that it will extend beyond the grant reimbursement window. Additionally, the CM/GC process allows the CM/GC to inform and recommend the best practices in sequencing of work based on their early involvement in the project. This early involvement will save the District from procuring the equipment on an owner purchased/furnished basis. This in turn will save the District from the inherent risk involved such as late delivery, the high potential of change orders and further delays in construction schedule.

- D. **Findings related to whether value engineering techniques may decrease the cost of the public improvement:** Staff finds that granting this Alternative contracting procedure will provide the most comprehensive team evaluation of all factors that affect the cost, quality, and schedule of the project, which may decrease the cost of the improvement. The CM/GC process offers a unique opportunity for value engineering that is not available through the design-bid-build process, since the CM/GC does not have an opportunity to suggest cost-saving measures during the design process. An essential part of each construction project is the value engineering evaluation, which is the means used to determine the best project design that meets the needs and priorities of the Owner, is within the Owner's budget, and considers the schedule constraints. Value engineering is done most effectively by a team consisting of the Owner, Architect, Consultants, and the CM/GC during design development and construction document completion. These benefits may apply at varying degrees for different projects, and Staff finds that this project would gain significant opportunities due to its relatively small size, moderate/higher degree of complexity, and time sensitive nature.
- E. **Findings related to the cost and availability of specialized expertise that is necessary for the public improvement:** Staff finds that no specialized expertise will be needed for this upgrade although lessons learned from other CTE projects have shown that CTE remodel projects may include nuances and complexities in the design process (e.g., related to permitting, etc.) that may not be clear to otherwise qualified design firms. Adding the voice of a construction manager during design, a key feature of the CM/GC model, may help identify these complexities so they do not cause a delay in project completion. As mentioned above, delay to this project may come with the added risk of losing Measure 98 grant funds.
- F. **Findings related to any likely increases in public safety:** Staff finds that the ability to select firms based on the firm's performance history will allow the District to select a contractor with a demonstrated record of safety.
- G. **Findings related to whether granting the exemption may reduce risks to the contracting agency, the state agency or the public that are related to the public improvement:** Staff finds that granting this Alternative contracting procedure will reduce schedule risk to the School District, by allowing critical path equipment

procurement, and allowing early work packages to proceed during final design to meet the required funding deadlines.

- H. **Findings related to whether granting the exemption will affect the sources of funding for the public improvement:** Not applicable. Staff finds that granting this exemption will have no effect on funding sources for the project.
- I. **Findings related to 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:** With the multitude of construction market factors that exist today in Oregon (e.g. completion of other projects, environmental issues that limit construction materials, shortage of qualified craftsman, inflation, etc.), establishing the best work sequence is crucial to accurately estimating the cost and schedule implications of this project. Staff therefore finds that selecting a firm through the CM/GC process allows the District the advantage of working with a CM/GC who: 1) Has knowledge of market conditions; 2) Experience in finding the best people qualified for this fast-track work; and 3) Providing accurate estimates for subcontracts. In addition, the CM/GC may plan for early procurement of goods and services where shortages, inflation or other market conditions could increase costs under the traditional design-bid-build method.
- J. **Findings related to whether granting the exemption will better enable the contracting agency to address the size and technical complexity of the public improvement:** Staff finds that granting this exemption will allow the School District to accept proposals only from contractors who have demonstrated considerable experience in delivering projects of similar complexity successfully.
- K. **Findings related to whether the public improvement involves new construction or renovates or remodels an existing structure:** This project involves renovation of existing structures.
- L. **Findings related to whether the public improvement will be occupied or unoccupied during construction:** This public improvement will occur in a time period in which a significant portion of the work will occur while the building is occupied or partially occupied.
- M. **Findings related to whether the public improvement will require a single phase of construction work or multiple phases of construction work to address specific project conditions:** This project will consist of a single phase.
- N. **Findings related to 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:** Staff will rely on their own experience, having successfully used the CM/GC method on many other renovation projects in the current and prior bond programs. In addition, architectural, engineering, and planning consultants with

experience in alternative contracting have been retained for professional services. The District also relies upon outside legal counsel, appointed by the School Board to provide construction contracting legal advice. The combined expertise and experience of such staff, consultants and professionals will oversee developing the alternative contracting method and its implementation, including negotiating, administering and enforcing the terms of the CM/GC contract.