



# MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

(Revised: 09/23/13)

## Board Clerk Use Only

Meeting Date: 2/12/15  
Agenda Item #: R.3  
Est. Start Time: 10:00 am  
Date Submitted: 1/29/15

**Agenda Title:** **RESOLUTION Approving Exemption from Competitive Bidding for use of the Construction Manager/General Contractor (CM/GC) Alternative Contracting Method on the Central Courthouse Replacement Project**

*Note: Title should not be more than 2 lines but sufficient to describe the action requested. Title on APR must match title on Ordinance, Resolution, Order or Proclamation.*

## Requested

**Meeting Date:** February 12, 2015 **Time Needed:** 10 minutes

**Department:** County Assets **Division:** Facilities & Property Management

**Contact(s):** JD Deschamps, Project Manager

**Phone:** 503-388-4615 **Ext.** X84615 **I/O Address:** 274/Blanchard

## Presenter

**Name(s) & Title(s):** Henry Alaman, Director, Facilities & Property Management; JD Deschamps, Project Manager; Mike Day, Day CPM, Owner's Representative

## General Information

### 1. What action are you requesting from the Board?

The Department of County Assets, Facilities & Property Management Division (FPM) is requesting Board approval of findings in support of an exemption from competitive bidding requirements on the pending public improvement contract for the Central Courthouse Replacement Project (Courthouse Project), to authorize use of the Construction Manager/General Contractor (CM/GC) method of project delivery.

### 2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.

The current Multnomah County Courthouse is both functionally and structurally obsolete. The 100-year old courthouse is seismically deficient and not built to current seismic standards. It does not satisfy current best practices for separation of prisoners from the general public during transport to courtrooms, nor does it have a sallyport for prisoner transport. The current courthouse is at capacity, and there is no room for additional growth.

The Courthouse Project is a technically complex project with highly specialized design and complicated construction requirements. Technical complexities include high rise construction, tie-back wall construction, and the need for courthouse construction

expertise. Courthouses are not like other buildings because of higher floor to floor heights and the need for large open space for courtrooms, with wider than normal column spacing. In addition, construction of courthouses includes special noise damping and control, holding areas and security requirements, as well as court specific technology needs. Construction expertise in Portland is very important because of the City's permitting requirements, as well as knowledge of how the weather and seasonal variations in the Pacific Northwest affect construction methods and schedules.

Very few architects or contractors have significant experience with design and construction of courthouses. The combination of security and site logistic issues for a downtown project must be met with requirements and experience. The safety aspects of designing and working over and around high traffic areas require the expertise of firms qualified from past work on downtown high rise and courthouse projects.

The CM/GC method of project delivery offers advantages that make it more appropriate for the Courthouse Project than the standard lowest price design-bid-build method. More specifically, the CM/GC delivery method:

- a. Provides opportunities to understand and manage risk issues.
- b. Allows greater flexibility for design and construction for a technically complex project with challenging site and staging conditions.
- c. Permits rapid completion of a project that has schedule constraints.
- d. Provides cost certainty at the time the contractor and the County agree on a Guaranteed Maximum Price.
- e. Allows flexibility to work with other agencies on evolving design elements.
- f. Enables the County to retain significant control over project design.
- g. Incorporates construction contractor input and knowledge into the project design and value engineering.
- h. Enhances community mitigation and participation.
- i. Frequently results in fewer disputes and claims at the end of a project.
- j. Provides opportunities to maximize contractor and work force diversity.

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 Courthouse 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 will specify how a proposal should be structured and what potential contractors need to submit.

The CM/GC project delivery system is unlike the low-bid project delivery method. In a low-bid, the project is designed and then contractors compete by trying to bid the lowest price. In the CM/GC method, a contractor is hired based on qualifications and lowest percent profit margin. The contractor has beneficial input during design. At an agreed upon point, the contractor gives a quote for a Guaranteed Maximum Price (GMP). This price is analyzed and may be negotiated. However, the County also has the right to let the construction contract low-bid if the County and the CM/GC do not agree on a GMP.

### **3. Explain the fiscal impact (current year and ongoing).**

The Courthouse Project budget is constrained to \$250 to \$260 million. FPM's 2015 budget includes funding for the site solicitation, programming and site evaluation, negotiation of a site purchase agreement and other pre-development activities. Chapter 705, Oregon Laws

2013, authorized creation of the Oregon Courthouse Capital Construction & Improvement (OCCCI) Fund and provides for the sale of Article XI-Q bonds to finance the State's matching share of costs for new or renovated courthouses, or portions thereof, owned or operated by the State under a long-term lease or IGA with each county. If approved by the Oregon Chief Justice and Department of Administrative Services, the Courthouse Project will qualify for 50% State funding to match the County's 50% contribution. Following the anticipated OJD and DAS approvals and the scheduled March 2015 bond sale, DAS will begin to pay OJD's matching share of approved courthouse costs from the OCCCI Fund.

**4. Explain any legal and/or policy issues involved.**

State law permits alternative project delivery methods, including CM/GC, as an exemption to traditional competitive bidding. ORS 279C.335(1) requires, with certain exceptions, that all public improvement contracts be based on competitive bidding and, under ORS 279C.375, be awarded to the lowest responsive and responsible bidder. ORS 279C.335(2) permits this Board, acting as the Local Contracting Review Board, to grant, under certain conditions and upon the Board's approval of specified findings, certain exemptions from the competitive bidding requirement, including CM/GC. ORS 279C.335(2)(a) requires the County 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."*

**5. Explain any citizen and/or other government participation that has or will take place.**

Under ORS 279C.335(5) a public hearing must be held before the Board's findings are adopted, allowing the opportunity for all interested parties to comment on the draft findings. This request for exemption was advertised in the *Daily Journal of Commerce* on January 28, 2015 and was also posted on the County website at: [www.multicopurch.org](http://www.multicopurch.org)

At the public hearing on this exemption request during the February 12, 2015 Board meeting, the public will have the opportunity to make comments, either oral or written.

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**Required Signature**

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**Elected**

**Official or**

**Department**

**Director:**

/s/ Sherry Swackhamer, Director  
Department of County Assets

**Date:**

January 29, 2015

*Note: Please submit electronically. Insert names of your approvers followed by /s/ - we no longer use actual signatures. Please insert date approved.*