

EXHIBIT 1

FINDINGS OF FACT AND CONCLUSIONS SUPPORTING AN EXEMPTION FROM COMPETITIVE BIDDING REQUIREMENTS AND ALLOWING THE USE OF THE CONSTRUCTION MANAGER/GENERAL CONTRACTOR (CM/GC) COMPETITIVE SELECTION PROCESS FOR THE BROADWAY BRIDGE ROLL WHEEL PROJECT

I. BACKGROUND

A. 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 hires an engineering design firm to perform the bridge, road, and other design elements of the project, and also hires a CM/GC contractor during the design phase to provide construction expertise to the Owner and the design firm. The Project Team is made up of Owner, Designer, and CM/GC. This Team continues throughout the duration of the project.

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

In general the expected benefits of this delivery method are:

- Cost savings
- Higher quality plans and construction
- 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 bid process, is becoming a more common approach for certain types of projects by public agencies within Oregon. 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:

http://www.agc-oregon.org/public/resource_center/publications/CM_GC_Guide_05.pdf

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.

B. Project Description – Broadway Bridge Rall Wheel Replacement Project

The Broadway Bridge was constructed in 1913. The lift span mechanism was invented by Theodore Rall. The Bridge is a complicated Rall double-leaf bascule structure. The project will replace the four eight-foot diameter Rall Wheels that the Broadway Bridge Bascule leafs rotate around and roll on during openings. Each wheel supports approximately two million pounds of bridge during all phases of bridge opening and when the bridge is in the closed position. In addition the project will replace the tracks that the Rall wheels roll on an replace or make adjustments to the bridge counterweight struts. Adjustments may also be required to other bridge operating machinery.

The Rall style of Bascule Bridge is very rare, with only a few left in existence today. The Broadway Bridge is by far the largest, and is mechanically unique from all of the others that were constructed. Very few engineering firms or contractors have any experience with a bridge of this mechanical complexity. As such, the Broadway Rall Wheel Replacement Project is a technically complex project with highly specialized design and construction needs. The alignment of the Rall wheels and the tracks must be performed with a very high degree of accuracy in order for the bridge to function successfully. In addition, the control struts that guide the rotation of the bridge around the center point of the Rall Wheel shafts must be precisely manufactured and located in the field or the new Rall Wheels will wear out in just a few years, wasting the millions of dollars spent to repair them. Other components of the bridge operating mechanism will also be affected by the quality of the work done on the Rall wheels and control struts. If errors are made in locating any of the components, the operating struts, anchor struts, guide wheels, and parts of the truss will all suffer accelerated wear and possibly premature failure. Other complications for the project include that the configuration of the components being worked on will make it difficult to do the work from the roadway deck. This, along with the desire to minimize impacts to roadway traffic and streetcar, while also accommodating large ocean going vessels coming into the grain depot just to the south of the bridge, will necessitate approaches to the work that are well thought out and cost-effective.

The project will potentially require permits from numerous agencies including the National Marine Fisheries Service, United States Coast Guard, and Oregon Department of State Lands. The requirements included in these permits will need to be negotiated with the various agencies and will increase the technical complexity of the project. These requirements are frequently specific to particular means and methods of construction.

The Project is currently in the procurement stage. A study was done in 2012 to assess the replacement needs of the mechanical components. The Intergovernmental Agreement (IGA) and Prospectus are done and funding for design has been initiated.

The schedule currently envisioned by the County for the Broadway Rall Wheel Project is aggressive, but feasible. Part of the reason for the aggressive schedule is to ensure that

Federal Funds for both design and construction are obligated prior to September 30, 2015 in accordance with ODOT requirements. Delaying obligation of the federal funds for the project could lead to loss of the funds.

The project schedule currently includes the following major milestones:

- Complete CM/GC and Designer procurements August 2014
- Design Development September 2014 to July 2015
- 100% PSE Package July 2015
- Award Construction Contract July - September 2015
- Obligation of funding September 2015
- Construction Start November 2015
- Construction Completion November 2016

A major schedule consideration related to permitting is optimizing the potential of performing work during the primary in-water work window of 2016. Due to the location and size of the Broadway Bridge Rall Wheels, cranes located on river barges may be required to lift the materials into place. This could mandate that construction only be performed during an in-water work window. The in-water work window for the Willamette River is July 1 through October 31 each year. The window is established by the National Marine Fisheries Service in order to protect threatened fish species in the river.

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. It will be broadly advertised. 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 include:

- Proposer Qualifications
- Proposer Experience
- Organization and Key Personnel
- Project Approach
- Pre-Construction Services Fee
- CM/GC Fee
- Sustainable Practices
- Diversity Plan
- Employee Healthcare and Other Benefits
- Optional Oral Interviews

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 Broadway Bridge Rail Wheel Replacement 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 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 negotiate a contract with the top ranked firm. If negotiations are not successful, negotiations will be conducted with the next ranked firm. At the successful conclusion of negotiations, the County will enter into a contract with the successful 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

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.”*

This section presents a series of County staff findings relative to each of the above items.

A. How Many People are available to Bid

The Broadway Rall Wheel Replacement Project is a technically complex project with difficult site conditions. Technical complexities include temporarily supporting a 4 million pound bascule bridge while replacing the wheels that normally carry the bridge weight. The alignment of the

Rail Wheels and the tracks must be performed with a very high degree of accuracy. The control struts must be precisely manufactured and located in the field. In addition, there is the complexity of constructing a major bridge project while minimizing impacts to roadway traffic on and river traffic under the bridge.

There are few contractors in the country with the experience, equipment, and the skill set to work on a project of this nature. Using the CM/GC method of contracting to ensure that the County is selecting the Contractor that will perform the work from within the limited base of Contractors qualified to do the work will mitigate the risk of having Contractors that are not qualified and capable of doing the work successfully bidding on the project.

B. Construction Budget and Projected Operating Costs

The funding for the project is constrained to \$10 million. The project is funded with 89.73% FHWA funds and 10.27% County Funds. The County funds for design are in the Bridge Division FY2015 budget. County funds for constructions will be included in the Bridge Division FY2016 budget. Multnomah County's General Fund will not contribute to the project.

The CM/GC delivery method offers Multnomah County major advantages over other delivery methods toward the objective of delivering the completed project within the available funding. Because the construction contractor provides constructability, 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.

The CM/GC process puts Multnomah County in the best position to deliver this highly complex and unique project within budget.

Ongoing operating costs are included in the Multnomah County Bridge Division annual budget.

C. Public Benefits

The Broadway Bridge Rail Wheel Replacement project is expected to provide long-term public benefits including:

- A structurally and mechanically sound bridge that will operate reliably for river, roadway, bicycle, and pedestrian traffic;
- Preservation of a unique bridge that is listed on the national historic register;

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 project schedule critical work to proceed ahead of complete design. The CM/GC is involved in the design and ongoing review of contract documents, which improves the quality of the plans and specifications. It also offers greater opportunity to mitigate impacts to the community and optimize diverse participation through community meetings 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 the same time as the engineering firm(s), before design begins. This will allow the contractor to have input into the design 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 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, 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 costs and benefits. Under the traditional design/bid/build method, value engineering typically occurs just once during the design phase.

With design-bid-build, savings from value engineering measures suggested by the construction contractor are divided between Multnomah County and the contractor. Under CM/GC, those savings accrue 100% to the County.

E. Specialized Expertise Required

Due to the location and massive size of the Rall wheels on the Broadway Bridge, the successful completion of the work will likely require the placement of large cranes in the river, that are capable of lifting the Rall wheels and their tracks. The cranes will be necessary for both the removal of the old Rall wheels and tracks and the installation and placement of the new wheels and tracks. The contractor will need to be skilled at developing and executing plans for supporting the multimillion-pound bridge span structure while its usual supports are removed. Heavy parts will need to be located carefully within very tight tolerances to ensure proper bridge operation.

This project will require a construction team with specialized expertise and equipment due to the numerous complexities described in section I.B and listed briefly here:

- Traffic management and phasing to minimize impacts to roadway traffic on and river traffic under the Broadway Bridge during construction;
- Alignment of the Rall wheels and the tracks must be performed with a very high degree of accuracy;
- Control struts must be precisely manufactured and located in the field;
- Challenging site conditions - limited in space and access to the area;
- Complex permitting; and
- In-water work limitations.

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
- Sustainable Practices
- Diversity Plan
- Employee Healthcare and Other Benefits
- Optional Oral Interviews

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, instead of selecting the low bidder on a completed design, and, thus, to acquire the specialized expertise needed for project design and value engineering.

F. Public Safety

Safe and efficient movement of river traffic must be maintained through the Broadway Bridge during construction. One critically important river user is the grain terminal, owned by the Louis-Dreyfus Corporation, just upriver from the bridge. It is crucial that all work be highly coordinated with the grain terminal to avoid unnecessary delay to shipping, which could result in steep fines for the County. At the same time, an extended closure of the bridge deck to the surface users, i.e. vehicles, bicycles and pedestrians, can be disruptive and should in most instances be avoided, if possible. Maintaining a means for ships to pass under the bridge that still allows for safe movement of roadway, bicycle and pedestrian traffic 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 Contractor plan and execute difficult operations. These operations include but are not limited to supporting the 4 million pound bascule leaves while the Rall wheels are replaced and ensuring that the bascule leaves do not become unstable and fall off of their supports or onto the approach span or into the river. The Contractor will also be required to survey and align components that are not

located in line of site and that are hundreds of feet apart to accuracy of 0.1 inches in order to ensure that the bridge operates properly.

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 their staff qualifications and demonstrated success on past projects, the County can reduce risk to the Broadway Bridge by selecting a Contractor with demonstrated expertise in planning and performing the type of operations required to construct the Rall Wheel replacement.

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 Broadway Bridge Rall Wheel Replacement Project is technically complex. The Broadway Bridge consists of a double leaf Rall bascule at the middle of the bridge and two fixed approach spans on each side. The bridge is one of the rarest and most complicated types of movable bridges in operation today.

Areas of technical complexity include:

- Traffic management and phasing to minimize impacts to traffic on the Broadway Bridge and on the river beneath it (autos, bicycles, Portland streetcar, boats, pedestrians)
- Replacement of a key operational element/structural support element while maintaining some level of operation of the bridge;
- Supporting the 4 million pound bascule leafs so that the Rall Wheels can be removed
- Rall wheel and Rall wheel track fabrication and installation with tight tolerances;
- Potentially complex permitting.
- Challenging site conditions

In CM/GC, the contractor is selected based significantly on qualifications. 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. 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 does not allow for the designer-owner-contractor interaction during design development, it provides the County less opportunity to most effectively resolve technical issues.

K. Improvement, replacement or renovation?

The project will renovate the existing Broadway Bridge.

L. Occupied or unoccupied during construction?

The County will attempt to minimize the disruption to river, roadway (cars, trucks buses, and streetcar), and sidewalk (bicycles and pedestrians).

M. Is the Construction Phased?

The Construction is not expected to be phased.

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, and will use said Staff, Attorneys, consultants and legal counsel. All such Staff, Attorneys, consultants and legal counsel have the necessary expertise and substantial experience in alternative contracting methods 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:

- A. The Broadway Bridge Rail Wheel Replacement 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 toward the objective of delivering the completed 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 Broadway Rail Wheel Replacement 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 their staff qualifications and demonstrated success on past projects, the County can reduce risk to the Broadway Bridge by selecting a Contractor with demonstrated expertise

in planning and performing the type of operations required to construct the Rall Wheel replacement.

- 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.
- K. The project will renovate the existing Broadway Bridge.
- L. The County will attempt to minimize the disruption to river, roadway (cars, trucks buses, and streetcar), and sidewalk (bicycles and pedestrians).
- M. The Construction is not phased.
- N. The County will use a combination of in house staff and hired consultants to secure the expertise required by the ORS 279C to successfully prosecute the Contract.

County Staff recommends that the CM/GC delivery method be implemented for the Broadway Bridge Rall Wheel Replacement project. CM/GC 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.