

FINAL REPORT OF ALTERNATE CONTRACTING PROCESS FOR THE EAST COUNTY COURTHOUSE

1. GENERAL

The Oregon Legislative Assembly encourages public agencies to consider alternative and innovative contracting methods, other than low bid, that take into account market realities. Pursuant to ORS 279.015, a local Public Contract Review Board (PCRB) may exempt certain contracts from traditional bidding by showing that an alternative contracting process is unlikely to diminish competition and that an alternative process will result in cost savings to the public agency.

2. BACKGROUND

Oregon Revised Statutes (ORS 279.015) and Public Contract Review Board Rule (PCRB 49-0600 to 49-0690) provide a means of contracting other than the traditional competitive low-bid process for public agencies. A local Public Contract Review Board may exempt certain public contracts or classes of public contracts from the competitive bidding requirements upon approval of findings submitted by the public contracting agency seeking exemption.

The PCRB reaffirmed the use of the CM/GC contracting method for the East County Courthouse project on January 7, 2010 for the preconstruction work with the architectural and engineering team as well as the construction of the project.

On August 26, 2010, the Board of County Commissioners approved locating the new County-owned Data Center in the basement of the East County Courthouse. This strategy leverages two Board-approved yet previously separate projects to capture economies of scale. Incorporating the new County Data Center into the existing East County Courthouse Project increased the scope of the original CM/GC contract.

3. 49-0695 POST PROJECT EVALUATION

(1) Upon completion of and final payment for any Public Improvement Contract, or class of Public Improvement Contracts in excess of \$100,000 for which the County did not use the Competitive Bidding process, the Department shall prepare and deliver to the Board an evaluation of the Public Improvement Contract or the class of Public Improvement Contracts.

(2) The evaluation shall include but is not limited to the following matters:

The actual project cost as compared with original project estimates. Prior to Schematic Design, the cost estimate for the East County Courthouse was \$20.7 million. Upon completion of the Schematic Design, the cost estimate was reduced to

\$19.6 million. Following Schematic Design, during Design Development, the Board of County Commissioners approved the addition of the County's new Data Center to the project. The new Data Center was authorized and funding approved in December 2009 by Resolution No. 09-148. The addition of the Data Center scope to the Courthouse construction increased the overall project cost to \$21.7 million.

(b) The amount of any guaranteed maximum price;

The guaranteed maximum price, established upon approval October 26, 2010 after the addition of the Data Center scope and the addition of a CM/GC construction contingency was \$16,758,532.

(c) The number of project change orders issued;

The entire project consisted of seventeen (17) Change Orders to the CM/GC consisting of one hundred and forty one (141) individual changes including:

- Discovery, removal and decommissioning of 15 drywells and other hidden conditions on site
- Addition of a new drywell on site by City of Gresham at the initiation of construction
- Upgrade of proposed generator and electric controls based on decision by County to participate in the Portland General Electric Dispatchable Standby Power program
- Modification of primary electric feed by utility during construction
- Addition of a supplemental cooling system following unforeseen low water production for geothermal system

(d) A narrative description of successes and failures during the design, engineering and construction of the project;

Successes:

Project Schedule: Project schedule projected a building opening in spring 2012. The building opened for Court business on April 16, 2012.

This is significant based upon the following developments:

- The additional scope of \$1.9 million County Data Center after the Design Development phase.
- The unanticipated requirement by the City of Gresham to add a drywell in 185th Avenue at the onset of construction.
- The unearthing of 15 abandoned drywells and other concrete structures at the beginning of construction.
- The primary extraction well for geothermal heating and cooling produced less than anticipated production, resulting in the need to design and add a traditional cooling tower to the building to meet cooling needs of Data Center.

Project Budget

The project budget, after the initial estimates were lowered from \$20.7 million to

\$19.6 million then modified for the data center, total project construction cost was \$21.7, as estimated.

Project budget absorbed substantial additional elements:

- Addition of new drywell by City at the initiation of the construction.
- Addition of a cooling tower when well water production did not meet anticipated levels
- Discovery, removal and de-commissioning of 15 drywells and other unforeseen conditions.

Project Objectives

The Project Objectives presented to the Board of County Commissioners October 26, 2010.

- Identity: Facility will reflect prominence and importance of providing due process to Multnomah County citizens east of 122nd while reflecting fiscal responsibility to the taxpayers.
 - The East County Courts provides an economic anchor to the Rockwood neighborhood.
- Operations: Use of durable, sensible materials and systems, focused on low long-term operational cost, and a functional, efficient facility that is easy to maintain.
 - The building systems, materials and operating efficiencies were addressed through a coordinated planning effort between the CM/GC, A&E and Facilities & Property Management operations and maintenance staff. The new courthouse allowed for consolidation of County operations with the termination of two leased facilities and the disposition of an underperforming County owned facility.
- Longevity: The facility is intended to last at least 80 years.
 - Building footprint and design was developed to accommodate future growth of three additional courtrooms on the site with projected minimal disruption to the existing facility.
- Sustainability: Achieve a LEED Gold rating, meet the Architecture 2030 Challenge, and incorporate the 1.5% Solar Program.
 - LEED Gold criteria was established before the Data Center was added to the scope of the project
 - Addition of Data Center reduced the number of LEED points due to the high energy needs.
 - On October 19th, 2012, the LEED project documentation was submitted to the US Green Building Council, including 67 LEED points (60 Points are required for LEED Gold) waiting for final decision.
 - Architecture 2030 Challenge was achieved prior to addition of the Data Center and was still achieved with the additional scope by a small margin.
 - 1.5% Solar Program resulted in the production of a 36.7 kw system on the roof in conjunction with a Green Roof that increases the solar efficiencies.

- CM/GC incorporated the County / City / DEQ Off-Road Clean Diesel Pilot Program into their subcontracting contracts that support the County's Climate Action Plan goals.
 - Geothermal Heating and Cooling System
 - Rainwater storage tank for non potable water use in building
 - On – site management of storm water runoff of all paved area.
- **Social Equity:** The County has a standard goal of 20% participation of M/W/ESB businesses. Contractor, working closely with the County Purchasing, developed a comprehensive and aggressive Subcontracting Plan resulting in a 33.65% M/W/ESB participation.

In addition to the Project Objectives, several additional features were incorporated:

- Working closely with Portland General Electric, CM/GC developed a strategy to incorporate a 1.5 MW generator into the project to allow the County to participate in the Dispatchable Standby Generator program reducing the County's long term operating costs and ensuring 100% back up power on site.
- Support continued business operations for neighboring operations including Taco Bell and Hawthorne Woodworking
- Incorporate 2% for Regional Arts and Culture Council into the building construction

Failures:

No significant failures identified.

(e) An objective assessment of the use of the alternative contracting process as compared to the findings prepared to support the use of the alternative contracting process:

Operational, Budget and Financial Data

Actual events during the course of the project were relatively consistent with the findings of the CM/GC Exemption. As a member of the Project Team early in the design process, energy – saving systems could be evaluated at the outset through a regimen of early meetings that included the architect, key consultants, key subcontractors, and County Operations and Maintenance staff.

The CM/GC was instrumental in maintaining the project budget with early and numerous cost estimates in addition to individual cost / benefit analysis of specific options. The County and the CM/GC shared all budget information from start to finish that generated team ownership and to the bottom line.

Public Benefit

The direct CM/GC involvement in the earliest stage of project design kept the County apprised of current market conditions including subcontractor markets and construction systems through a pre-bidding and final bidding strategy that influenced the products and systems that supported the project schedule and budget. Due to

the project being constructed during the midst of one of the most volatile economic times in decades, the CM/GC knowledge of current market conditions and subcontractors resulted in a stable pre-bidding and subcontracting effort.

Value Engineering

The pursuit of value engineering opportunities evolved into a fundamental exercise throughout the entire design process. Countless options for materials, products and systems were analyzed and compared before incorporating into the design. The analysis not only addressed cost but also schedule, maintenance, replacement and impact on the project objectives.

Specialized Expertise

The selected CM / GC was selected in large part on their significant experience with the CM / GC process, working with public agencies and experience with similar project types, MWESB subcontracting plans, and sustainable building practices. The CM/GC demonstrated the value of this experience through timely information to support good decision-making by the County.

Public Safety

The CM / GC demonstrated throughout construction the importance of public safety. Every weekly Project Team meeting was started with an update of site safety issues and procedures. The CM/GC required established and reinforced safety procedures for all visitors to the site.

In addition, construction activity incorporated public safety concerns when determining sequencing, timing and performance of work in the 185th Street right-of-way. Traffic signal and Stark Street improvements required coordination with ODOT and City of Gresham standards of public safety. Daily work plans and reports were provided to the City during hazardous operations, and much of the grading, paving and site work was performed after hours. The result of these efforts was that there were no injuries and local businesses remained operational.

Market Conditions

The CM / GC demonstrated a strong understanding of market conditions, and used that knowledge to augment other criteria during subcontracting and value engineering. Their well – established reputation and broad partnerships with subcontractors in the region was instrumental in securing talented subs, and played a significant role in their achievement of the high involvement of MWESB firms.

The bidding and construction schedule was during the height of the economic downturn which resulted in a substantial number of businesses shutting down. The CM / GC carefully evaluated the financial strength of all subcontractors, and worked with them to supply fair and accurate bids.

Technical Complexity

The CM / GC demonstrated during the selection process, and later with actual performance in pre – construction, design and construction, that they possessed the

expertise and experience necessary to deliver this very complex project.

For example, the firm played a significant role in assisting the team to incorporate the Data Center. Adding the Data Center late in the design stage presented a complicated challenge, and the CM / GC played a significant role in the successful incorporation and ultimate build – out of this facility.

Funding Sources / Budget Management

The CM / GC performed in parallel with the findings of the CM/GC Exemption in this regard. Many significant cost estimates were prepared, presented and discussed with the Project Team to ensure a clear understanding of the assumptions, identification of optional systems and methods, and capital and operating costs associated with each option. This information assisted in the team's ability to modify the designs and methods with confidence in the budget and schedule, thereby eliminating risk to the County.

Issues for Consideration

In looking back over the success of this contracting methodology for the East County Courthouse, it may be beneficial to include a shared savings provision in the Owner / CM/GC Agreement that includes well - defined accounting procedures and definitions.