

CONSTRUCTION MANAGER/GENERAL CONTRACTOR FINDINGS

North Mirror Pond Parking and Event Space Project

September 2, 2026

Background

Oregon Revised Statutes (ORS) 279C.300 requires competitive bidding for construction of public improvement projects unless specifically excepted or exempted as provided under ORS 279C.335. The exemption must be supported by findings showing that an alternative contracting process is unlikely to encourage favoritism or diminish competition, and that it will result in substantial cost savings and other substantial benefits to the contracting agency or the public.

For the reasons set forth more fully below, it is recommended that the **Construction Manager/General Contractor ("CM/GC")** delivery method be selected by utilizing the competitive proposals process in accordance with ORS 279C.400 for a specific contract to build the **North Mirror Pond Parking and Event Space Project (the "Project")**. Under this process, the City will advertise a request for proposals (RFP) for firms that can provide pre-construction personal services, and construction services. The RFP process allows the City to evaluate proposals based on price and qualifications to select and issue a contract for the successful contractor. The CM/GC delivery method is appropriate to consider for highly specialized, complex projects to ensure the contractor has the specific experience needed to successfully deliver similarly complex work. The CM/GC method allows the contractor to be involved in the design process, providing an opportunity for identification of more accurate cost and schedule certainty and identification of solutions that best address the complexities of the Project. For the Project, these complexities include but are not limited to the possibility of phasing to plan around various downtown activities and peak use times during the year, working in a tight downtown environment, and managing varying funding streams that must be tracked for appropriate use. The Project is also located in a sensitive Water Overlay Zone and must meet multiple corresponding planning requirements.

The Project

The Project will transform the existing North Mirror Pond Parking Lot, between Brooks Alley and Drake Park in Downtown Bend, into a new multi-use public use plaza and parking lot. It will be designed with flexibility to support events and programming, parking, and day-to-day use by the community. The Project site improvements include paving, pedestrian paths, a



permanent performance platform and related infrastructure, a waste collection enclosure, a prefabricated public restroom, bicycle parking, site lighting, landscaping/irrigation, parking and all related utilities. The Project also requires relocation of the existing fire hydrant and improvements along Brooks Alley to meet Fire Code requirements, as reviewed with Bend Fire & Rescue, to ensure continued access to all existing buildings in the area and the new plaza/parking lot. The South Mirror Pond parking lot is being considered for incorporation of trash needs as an alternative location as well.

The Project is in a sensitive and tight geographic location with unique timelines, due to downtown Bend events and activities throughout the year. Due to these timelines, the Project construction carries significant scheduling ramifications. Additionally, funding sources for this Project must meet the specific requirements for each source. The stakeholders for the Project include the neighboring property owners, business owners, the Downtown Bend Business Association, as well as the City of Bend's Transportation and Mobility Department.

In accordance with ORS 279C.330, ORS 279C.335, and Resolution No. 2967, the Bend City Council, in its capacity as the Local Contract Review Board, determines that the following findings justify an exemption from the competitive bidding requirement, and selection of a Construction Manager/General Contractor procurement method for the Project.

Findings

Finding	Explanation
The exemption is unlikely to encourage favoritism in awarding public improvement contracts or substantially diminish competition for public improvement contracts.	A publicly advertised RFP process will be utilized, with public notice in a newspaper with general statewide circulation and disclosure of the planned Alternative Contracting Method. No reduction of competition is expected since the proposed process is open to the same contractors that would have participated in the traditional design-bid-build process and many contractors that may be interested do not participate in design-bid-build processes any longer. There are multiple contractors both locally and regionally with the ability to compete for this contract. All qualified firms will be invited to submit proposals. Uniform and clearly-stated evaluation criteria will be applied in the evaluation and selection process. A committee consisting of no less than three staff members will perform the evaluation of proposers in an effort to minimize the effects of any individual bias. Favoritism will not play any role in the selection of the CM/GC.



Substantial cost savings and other benefits, further described as follows.	Early involvement of a contractor through a CM/GC contract is anticipated to result in reduced change orders, disputes, and claims during construction. The Project has a limited budget. The CM/GC contract will allow for parallel budgeting while design is occurring, allowing the design consultants to design to the budget and preventing multiple redesign efforts to bring the Project into budget after bidding. The utilization of the CM/GC contracting method will also allow for efficient coordination of potential multiple construction phases, if needed, given the project's sensitive location and downtown Bend's year-round event calendar. This ability to coordinate is likely to result in significant construction cost savings.
How many persons are available to bid?	The City does not expect this project delivery method to significantly affect competition compared to traditional delivery methods. Based on projects of similar scale and complexity, the City reasonably expects to receive three or more offers from qualified contractors.
The construction budget	The total available budget for this Project is \$5,000,000 inclusive of all design and City soft costs, with construction costs estimated at \$3,500,000. Within this Project, there are three restricted funding streams that must be monitored and carefully managed to ensure Project success. The first funding source is local room tax funds, which can be used for tourism-related facilities. The performance platform and the event space components of the Project are tourism-related facilities because they have a substantial purpose of supporting tourism and accommodating tourist activities. The second funding stream is the Parking in Lieu funds which were set aside by the City years ago, and must be used for the purpose of providing parking. The third source will be the City's Parking Services Fund, by way of both a cash contribution and debt financing. The Parking Services Fund generates revenue through permits and citations, which is then restricted for use within the parking system. The CM/GC delivery method will allow the City to maximize the value it receives from the available funds and help ensure the costs of design and final construction fall



	within the use limitations for all three funding sources. This will be accomplished through value engineering, minimized change orders due to dedicated contractor involvement in the design process, and reduced City staff time on the Project. Additionally, the CM/GC delivery method will help ensure compliance with the use limitations of each funding source through the CM/GC contractor's tracking expenditures by fund rather than total project budget/costs.
Public benefits that may result from granting the exemption.	Selection of an experienced, cooperative, and solutions-oriented CM/GC team with the demonstrated ability to coordinate and execute construction with the number of project constraints will greatly benefit the public. Specifically, it will allow for coordination with the neighboring downtown businesses and property owners to minimize impacts and disruptions as much as possible. It will also allow for coordination with these stakeholders regarding public events that take place in the area.
Whether value engineering techniques may decrease the cost of the public improvement.	This alternative contracting approach fosters a collaborative relationship between the City, the Project designer, and the contractor through all project phases. Early involvement of a contractor through a CM/GC contract is intended to result in reduced change orders, disputes, and claims during construction and will provide the opportunity to identify best value design and construction sequencing ideas commensurate with the contractor's means and methods that are anticipated to result in decreasing the cost of the public improvement.
The cost and availability of specialized expertise that is necessary for the public improvement.	The use of the CM/GC contracting method is not expected to change the cost or availability of specialized expertise necessary for the Project. Availability and cost of specialized design expertise will not be impacted because, with the CM/GC contractor collaborating early on with the Project designer, the need for post-bid Value Engineering will be removed, and corresponding increases in design service fees will be avoided. Availability and cost of construction services are also not expected to be impacted because a competitive process will be used for subcontracted work, unless otherwise



	approved as provided under the General Conditions. This results in costs and availability comparable to those found in the traditional design-bid-build contracting method. Furthermore, this Project is anticipated to garner significant interest from many firms throughout the region, resulting in a competitive environment like we would see under a traditional contracting method. The CM/GC contracting approach also creates opportunity to begin securing subcontracts earlier than traditional design-bid-build, which can limit risks to cost escalations.
Any likely increases in public safety.	The CM/GC procurement method allows historical safety performance on similar projects to be considered as a selection criterion. It also permits the City to work closely with the contractor to ensure that the design and work sequences include appropriate safety measures, that the contractor understands the City's safety concerns, and that the contractor will take appropriate steps to address them. This will be particularly important in coordination with the relocation of the fire hydrant and the impacts to traffic and deliveries in downtown and Brooks Alley.
Whether granting the exemption may reduce risks to the contracting agency, the state agency or the public that are related to the public improvement.	The CM/GC contracting method differs from the traditional design-bid-build method in that the contractor is involved in the design process, typically very early. The contractor's involvement in design allows the contractor to better understand the design details, existing site and operational conditions, and construction sequencing requirements; this knowledge reduces the risk of change orders, claims, and the exceedance of the project schedule. In addition, the contractor can participate in risk workshops, utilizing their experience to identify potential risks which can be evaluated for severity and probability and in which design efforts may reduce the potential impacts or, in some cases, eliminate the risk altogether.
Whether granting the exemption will affect the sources of funding for the public improvement.	The Project's funding sources (local room tax funds, parking in lieu funds, and parking services funds) will not be jeopardized by granting the exemption for the CM/GC contracting method. The CM/GC method is permitted under each source. And, given the limited acceptable uses for each source, the CM/GC method will help the City ensure it complies with the use requirements for each



	source. This can be done through tracking of costs by funding source early in the project and billing against those sources each step of the way.
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.	Using the CM/GC method, benefit-cost decisions can be made using real-time construction costs to keep the project within budget. Materials, equipment, and subcontracted work can be procured early to eliminate price uncertainty and lessen the impact of price escalation during the construction period. In addition, under the CM/GC delivery method, the City has the flexibility of awarding early construction work packages (e.g., demolition work, procurement of long-lead items, etc.) prior to design completion of the overall project. Furthermore, having the contractor on board during design provides the City with the ability and time to adjust the design as needed to meet the budget when true pricing is understood. This will help limit redesign efforts.
Whether granting the exemption will better enable the contracting agency to address the size and technical complexity of the public improvement.	The Project will be challenging due to its inherent technical complexity. This complexity includes managing meaningful engagement from the multiple stakeholders, managing the Project's restricted funds, and delivering the Project improvements in the tight downtown environment with a busy events calendar, among others. Using a CM/GC contractor will better enable the City to successfully address these complexities by coordinating work early and in collaboration with the Project designer and stakeholders.
Whether the public improvement involves new construction or renovates or remodels an existing structure	The Project is a combination of new construction and renovation of the existing parking lot as well as relocation of the existing pergola. The CM/GC method will allow for proper coordination and planning of each element.
Whether the public improvement will be occupied or unoccupied during construction	The North Mirror Pond parking lot will likely need to be shut down during construction, but Brooks Alley and frequent events in the downtown area will need to continue to function during construction. The CM/GC method will allow the contractor to plan and coordinate any needed closures and redirection of deliveries and other access to businesses.
Whether the public improvement will require a	The Project is planned for a single phase of construction, but the City may need to consider multiple phases if the



single phase of construction work or multiple phases of construction work to address specific project conditions.	work cannot be completed in the 9-month window to avoid the summer busy tourism season. Working with a CM/GC contractor to plan the construction alongside the design will inform whether the Project needs to be broken into two phases or not.
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 City has considerable experience with alternate contracting methods, including Design-Build, Progressive Design-Build, and Construction Manager/General Contractor, with in-house project management, procurement, and legal counsel staff.
Additional Findings that address industry practices, surveys, trends, past experiences, evaluations of completed projects required by ORS 279C.355 and related information regarding the expected benefits and drawbacks of particular alternative contracting methods.	Additional benefits that will come with utilizing the CM/GC contracting method for the Project include a more cohesive project team, identifying the most efficient and cost-effective delivery schedule, and increased leverage for the City to negotiate the guaranteed maximum price (GMP) for construction.

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Puede obtener esta información en formatos alternativos como Braille, formato electrónico, etc. También disponemos de servicios gratuitos de asistencia lingüística. Póngase en contacto en correo electrónico accessibility@bendoregon.gov o número de teléfono 541-693-2198. Los usuarios del servicio de retransmisión deben marcar el 7-1-1. Por favor, envíe sus solicitudes con 48-72 horas de antelación al evento; todas las solicitudes están sujetas a los tiempos de procesamiento del proveedor.

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