

Resolution 25-5514: Exhibit A

Installation of a Permanent Stormwater Treatment System at the Metro Central Transfer Station

**Findings in Support of an Exemption from Competitive Bidding
and Authorizing the Procurement by Request for Proposals
of
Construction Manager General Contractor (CM/GC) Services
for Installation of a Permanent Stormwater Treatment System at the
Metro Central Transfer Station.**

Pursuant to ORS 279C.335(2) and (4), and Metro Code Section LCRB 49-0620 through 49-0660 and 49-0690, the Metro Local Contract Review Board makes the following findings in support of exempting the procurement of a permanent stormwater treatment system at the Metro Central Transfer Station from competitive bidding, and authorizing use of a Request for Proposal (RFP) process for a Construction Manager General Contractor (CM/GC) public improvement construction contract:

A. The exemption is unlikely to encourage favoritism or substantially diminish competition (ORS 279C.335(2)(a); LCRB 49-0630(4)).

The Metro Local Contract Review Board finds that exempting the procurement of a permanent stormwater treatment system at the Metro Central Transfer Station from competitive bidding is “unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts” as follows: The RFP will be formally advertised with public notice and disclosure of the alternative contracting method and will be made available to all qualified contractors. Award of the contract will be based on the identified selection criteria, and dissatisfied proposers will have an opportunity to protest the award. Full and open competition based on the objective selection criteria set forth in the Metro Local Contract Review Board resolution will be sought, and the contract will be awarded to the most advantageous proposer. Competition for the RFP will be encouraged by: Posting on Bid Locker (Metro Procurement’s online procurement site); public advertisements placed in the Portland Business Tribune and minority business publications; performing outreach to local business groups representing minorities, women, and emerging small businesses; and by contacting contractors known to Metro to potentially satisfy the RFP criteria. The subcontractor selection process will be a low bid competitive method for contracts requiring a minimum of three bids per scope, unless there is an approved exception. Competition among subcontractors will be encouraged by contacting local subcontractors, including COBID firms, and notifying them of any opportunities within their area of expertise and by performing outreach to local business groups representing minorities, women, and emerging small businesses.

B. The exemption will likely result in substantial cost savings to Metro (ORS 279C.335(2)(b)).

The Metro Local Contract Review Board finds that exempting the procurement of a permanent stormwater treatment system at the Metro Central Transfer Station from competitive bidding will likely result in substantial costs savings to Metro, considering the “type, cost and amount of the Contract,” the 14 factors required by ORS 279C.335(2)(b), and the “additional findings” per Metro Local Contract Review Board (LCRB) Administrative Rule 49-0630(3)(b) as follows:

1. Type, Cost and Amount of the Contract:

The rough-order-of-magnitude estimated cost for this public improvement contract is \$2,000,000.00.

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The CM/GC project delivery model is a common public improvement procurement practice. Metro has successfully used this delivery model since 2018 on over 18 projects. In CM/GC projects, the General Contractor becomes a part of the project team during the design process in order to provide constructability, logistics, and value engineering expertise to the construction documentation process. CM/GC offers a distinct advantage to Metro over the traditional design-bid-build (low-bid) method in its ability to obtain enhanced participation from COBID contractors.

2. 14 Statutory Factors (ORS 279C.335(2)(b)(A-N)):

1. *Number of Entities Available to Bid:*

This factor is unaffected by the exemption from competitive bidding. Regardless of procurement method, there are numerous firms interested in participating in the procurement, many of which would bid on the project in the absence of the exemption from competitive bidding.

2. *Construction Budget and Future Operating Costs:*

Using an RFP to select a General Contractor will allow Metro to obtain cost reductions through pre-construction services by the contractor during the design phase, including a constructability review, value engineering, sequencing planning to minimize stormwater treatment downtime, and other services. Involving the contractor early in the design process will foster teamwork that results in a better design, fewer change orders, and faster progress with fewer unexpected delays, resulting in lower costs to Metro. In addition to construction of new built features, this project requires installation and connection of plumbing, mechanical, electrical, and communication infrastructure/systems that integrate into existing infrastructure. Therefore, careful upfront collaboration with the design team is critical for successful project delivery. The potential for faster progress and an earlier completion date will also help Metro avoid the risk of inflationary increase in material and construction labor costs, reduce treatment system downtime, help ensure that stormwater discharges do not adversely impact the environment, and help ensure Metro can continue to meet its obligations under the National Pollutant Discharge Elimination System (NPDES) 1200-Z permit (Permit). Contractor constructability review also allows for an ongoing review of the long-term operating costs of design options, allowing for midcourse design changes, leading to a project having lower long-term operating, maintenance, and repair costs.

3. *Public Benefits:*

In addition to the cost savings benefits outlined throughout this Exhibit A, the procurement of a CM/GC construction contract through the RFP process will help realize Metro's goals of continuing to minimize environmental impacts from transfer station operations, reducing stormwater treatment operation and maintenance costs, and obtaining COBID participation by enabling a qualitative review of proposers' approaches to COBID subcontractor outreach and mentoring partnerships.

4. *Value Engineering:*

The process will enable the General Contractor to work with the Professional Design Team and Metro staff to help reduce construction costs by providing early input and constructability review to designers, avoiding costly redesign and change orders, and providing opportunities for the Professional Design Team and General Contractor to collaborate on practical and innovative solutions to meet the project budget. This type of contract will allow the designers to

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explore with the contractor the feasibility of innovative stormwater treatment system design solutions and improvements more easily and incorporate ongoing value engineering principles. These design solutions will also allow for substantial long-term cost savings by designing for reduced operational and maintenance efforts and reduced consumable use.

5. *Specialized Expertise Required:*

The contractor and subcontractors must demonstrate in their proposals that they have experience with: CM/GC project delivery; working on heavy industrial sites during operating hours; working in a congested area with the general public; providing traffic control in an industrial area; working around power lines; knowledge of controller board systems with human interfaces and integration with mechanical components; low voltage electrical cabling; local jurisdiction permitting, and local regulations; disciplines including excavation, grading, surveying, stormwater systems, lift stations and integration with controls, hard and flex pipe work, pipe freeze protection, low tolerance concrete work, systems integration, pump controls and variable frequency drives, and pressure transducers.

The contractor and subcontractors must also demonstrate success with subcontractor equity, have successfully completed public improvement projects, and understand the logistics of general public and staff traffic control, site access, removing demolished materials, etc. The selection of a contractor with such expertise to perform the project will result in a substantially lower risk to Metro, because it increases the likelihood of the project being completed on or ahead of schedule, resulting in lower costs, and improved stormwater treatment that protects human health and the environment. The ability to factor expertise and experience into contractor selection is inherent in the RFP process but is not part of the traditional low bid process.

6. *Public Safety:*

The CM/GC contracting process will enable the contractor to work with the Professional Design Team and Metro Central Transfer Station staff to plan for minimizing safety hazards and conflict between the project and ongoing facility operations by providing early input into issues of project phasing, equipment and material staging areas, construction access and scheduling. Such integrated early planning efforts are expected to limit risks of interruption to public customers and private garbage haulers while increasing site safety for all. The ability to factor safety performance on similar projects into contractor selection is inherent in the RFP process but is not part of the traditional low bid process. Delivery of an effective stormwater treatment system will help ensure that Metro's operations do not adversely impact the environment, and waterways used by the public. The qualifications-based selection can also help ensure that the project is completed with a level of expertise that enhances public safety.

7. *Reduces Risk to Metro and the Public:*

Metro Central Transfer Station is required to maintain compliance with its NPDES 1200-Z Permit, which includes treating stormwater prior to discharge. This project, if not completed within a targeted window absent of precipitation, could result in discharge of untreated stormwater and adversely impact Metro financially (Permit violation) or adversely impact the environment through discharge of untreated stormwater to surface water, potentially posing a risk to human health and the environment. Project delays may require alternative capture and treatment of site stormwater under a separate permit at significant cost to the project and require additional infrastructure that could interfere with transfer station operations. The risk

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of disruption to Metro Central's daily operations posed by the inability of the contractor to meet the schedule deadlines will be reduced by the selection of the contractor based on the demonstrated ability to perform the work as specified and based on successful prior experience working safely, effectively and efficiently in or near a similar environment where Metro staff, private contractors and the public are present, rather than awarding the project to the low bidder.

8. *Exemption's Effect on Funding:*

Does not apply.

9. *Better Control of Impact of Market Conditions on Cost and Time to Complete:*

In order to maintain compliance with the NPDES 1200-Z Permit, the time to complete the installation of the permanent stormwater treatment system is highly constrained and will require efficient coordination between the general contractor, equipment vendors, and subcontractors. The goal of this project is to construct the project during the summer, during a period of no precipitation. Project delays may require identifying and installing alternative temporary stormwater treatment that could result in substantial project cost overrun.

10. *Technical Complexity:*

The technical complexity of the project will include the required low tolerances of some of the new constructed elements (gravity feed elevations and clear well pad leveling) and integration of the vendor-provided equipment, systems, and controls into the new and existing site stormwater infrastructure. The exemption will allow Metro to select a General Contractor and subcontractors that have demonstrated technical expertise, knowledge, and experience with the logistical challenges of construction in a similar setting, all of which can be factored into the contractor selection in the RFP process. The selection of a contractor with demonstrated success in implementing similar projects will result in a substantially lower risk to Metro, because it will increase the likelihood of maintaining compliance with the Permit, the project being completed on budget, and fewer construction delays and change orders, resulting in lower costs. The RFP process will consider each contractor's past performance and technical knowledge.

11. *New Construction, Renovation, or Remodel:*

The project will include new construction, renovation of existing stormwater system facilities, and installing/constructing improvement to existing facilities. There are opportunities—if Metro engages a Contractor early in the process—to coordinate and design a phased solution with the designer that will minimize site operational disruptions, ensure ongoing NPDES 1200-Z Permit obligations are met, and support project completion within the required timeframe, at no additional cost.

12. *Occupancy During Construction:*

Metro Central Transfer Station is open 362 days a year and is operational 24 hours a day. It will be occupied and operational during construction.

The CM/GC contracting process will enable the contractor to work collaboratively with the Metro project manager, Professional Design Team and Metro Central Station staff to minimize conflict between facility operations, public customers and private garbage haulers, by providing early input into issues of project phasing, equipment and material staging areas, construction

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access and scheduling. Such integrated early planning efforts are essential to maintaining normal facility operations and are expected to limit conflicts and thus reduce the risk of construction delays and costly change orders.

13. *Phased Construction Work:*

Part of the CM/GC's pre-construction work will be determining project sequencing and how to phase the project to minimize stormwater treatment downtime while balancing needed downtime for transfer station operations. The CM/GC will also determine which phases can be completed during regular daytime hours, on weekends, or overnight, allowing for early work order amendments to start on some phases while finalizing overall design, which ultimately saves time on the overall project and mitigates impacts to ongoing operations. Early work phases may uncover latent conditions at the project site that, once exposed, will be addressed efficiently and less expensively during ongoing design, avoiding costly redesigns and change orders.

Due to the project site's NPDES 1200-Z Permit obligations, and need to continuously contain and treat site stormwater, it is necessary for construction to occur solely during the dry summer months. Doing so reduces the risk of discharging untreated stormwater from the project site in violation of the Permit, having to install costly alternative temporary construction stormwater treatment equipment, or finding alternative stormwater treatment or disposal options.

14. *Availability of Personnel, Consultant and Legal Counsel with CM/GC Expertise:*

The Office of Metro Attorney, Project Manager, and Professional Design Team have the necessary qualifications and expertise to negotiate, administer, and enforce the terms of Metro's CM/GC public improvement contract, including prior experience governing large CM/GC projects and managing them to a successful completion.

C. Additional Findings (LCRB 49-0630(3)(b)):

1. Industry practices, surveys, trends.

The industry-accepted benefits of the CM/GC method include:

- Results in a better design that meets the owner's objectives
- Encourages competition, especially for COBID subcontractors
- May be completed in a faster timeframe
- When skillfully managed, costs less than a design-bid-build project that is designed and constructed in the traditional manner due to higher likelihood of constructability of design and opportunities for value engineering early in the design process
- Reduces the risks of delays, cost overruns, permit violations and disputes
- Limits the number of change orders for unforeseen conditions

2. Past experience and evaluation of Metro CM/GC projects.

- 2024 – Oregon Zoo Entry Plaza and Polar Bear Plaza Project
- 2023 – Metro Central Transfer Station Roof Safety Upgrades
- 2023 – Arlene Schnitzer Concert Hall Roof Replacement
- 2022 – Blue Lake Park Demolition of Fishing Pier

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- 2021 – Oregon Zoo Boardwalk and Gate J Security Improvement Project
- 2021 – Arlene Schnitzer Concert Hall City Sewer Connection Project
- 2020 – Oregon Convention Center VIP Suite B and Prefunction A & C Restrooms
- 2019 – Oregon Convention Center Plaza & Renovation Project
- 2019 – Lone Fir Cemetery Design and Construction of a Retaining Wall
- 2018 – Antoinette Hatfield Hall Roof Replacement and Parapet Repair
- 2018 – Arlene Schnitzer Concert Hall Acoustical Enhancements

3. Benefits and drawbacks of CM/GC to construct and install a permanent stormwater treatment system at the Metro Central Transfer Station.

The CM/GC method provides an invaluable means of addressing the risks to Metro presented by the project's site conditions, timeline, and stormwater permit obligations.

By involving the contractor extensively during the design process, Metro will be able to better account for, plan around, and address the above factors prior to and during construction. This avoids project delays and expensive change orders, helps to reduce liability and revenue risks to Metro, minimizes the likelihood of stormwater permit violations, and provides a foundation of cooperation upon which a high-quality result may be achieved, on schedule and on budget. Pre-construction services provided during the process include a constructability review, value engineering, and other services during design. Involving a contractor during the design fosters teamwork that results in a better design, faster progress with fewer delays and lower risk of costly change orders.

Given Metro's favorable experience with CM/GC, staff foresees no drawbacks to adopting the CM/GC method for installation of a permanent stormwater treatment system at the Metro Central Transfer Station.