

BEFORE THE METRO CONTRACT REVIEW BOARD

FOR THE PURPOSE OF PROVIDING AN ) RESOLUTION NO 99-2790  
EXEMPTION FROM COMPETITIVE BIDDING )  
REQUIREMENTS FOR A REQUEST FOR ) Introduced by Mike Burton, Executive  
PROPOSALS FOR CONSTRUCTION ) Officer  
MANAGEMENT/GENERAL CONTRACTOR )  
SERVICES FOR THE EXPO CENTER HALL "D" )  
CONSTRUCTION PROJECT )

WHEREAS, Metropolitan Exposition-Recreation Commission (MERC) and Metro staff have prepared the Request for Proposals (RFP) for Construction Manager/General Contracting (CM/GC) Services for a proposed Expo Center Hall "D" Construction Project, which RFP is attached as Exhibit 1; and

WHEREAS, Metro Code requires that the procedures for competitive public bidding of Metro contracts shall comply with all requirements that are generally applicable to local governments; and

WHEREAS, ORS 279.015 requires that public contracts shall be based upon competitive bids or proposal except when exempted upon approval of certain findings; and

WHEREAS, Metro Code Section 2.04.054 provides that all Metro and MERC public contracts shall be based upon competitive bid with the exception that specific contracts may be exempted by resolution of the Metro Contract Review Board, subject to the requirements of ORS 279.015, including certain findings; and

WHEREAS, the RFP is designed to select the most qualified contractor to perform the required pre-construction and construction services for the project; and

WHEREAS, for the justifications set forth in the attached Exhibit 2, the Metro Contract Review Board finds that exempting the award of a contract resulting from the RFP for CM/GC Services for the Expo Center Hall "D" Construction Project from the competitive bidding

requirements of ORS 279.015 and Metro Code Section 2.04.052 is unlikely to encourage favoritism in the award of such contract or substantially diminish competition for such contract; and

WHEREAS, for the reasons set forth in Exhibit 2, exempting the award of the contract resulting from the RFP for CM/GC Services for the Expo Center Hall “D” Construction Project pursuant from competitive bidding will result in substantial cost savings to Metro; and

WHEREAS, ORS 279.015(6)(a) and Metro Code Section 2.04.054 require Metro to direct the use of alternative contracting and purchasing practices that take account of market realities and modern innovative contracting and purchasing methods, which are consistent with the public policy of encouraging competition; and

WHEREAS, the RFP for CM/GC Services contemplates utilizing an alternative contracting method and selecting a qualified contractor based upon certain qualifications; and

WHEREAS, the CM/GC method is recognized as a modern and innovative contracting method which has been successfully utilized by Metro and by numerous public agencies including the State of Oregon, the Port of Portland, the Tri-County Metropolitan Mass Transit District (Tri-Met), Washington County and the City of Portland; and

WHEREAS, the criteria which will be evaluated during the selection process include review of proposers’ project approach and management plan; the qualifications of proposers’ key personnel; organization of project staff and resources; fixed fee/guaranteed maximum price proposal; proposed project management related to methods of project cost, schedule and quality control; and the proposers’ past utilization of minority and women-owned business enterprise subcontractors; now, therefore,


BE IT RESOLVED:

1. That the Metro Contract Review Board adopts as its findings the justifications, information and reasoning set forth in Exhibit 2 and incorporated by reference into this Resolution as if set forth in full; and
2. That based upon such findings, the Metro Contract Review Board exempts from competitive bidding requirements the contracts to be solicited through the attached Request for Proposals; and
3. That the Metro Contract Review Board authorizes and directs the Metropolitan Exposition-Recreation Commission to use Construction Manager/General Contractor services contracting methods for the Expo Center Hall "D" Construction Project; and
4. That the Metro Contract Review Board authorizes the Metropolitan Exposition-Recreation Commission to utilize the Request for Proposals for Construction Manager/General Contractor services for the Expo Center Hall "D" Construction Project.

ADOPTED by the Metro Council this 10<sup>th</sup> day of JUNE 1999.

  
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Rod Monroe, Presiding Officer

APPROVED AS TO FORM:

  
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Daniel B. Cooper, General Counsel

MDF:kaj/DBC:sm

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EXHIBIT " 1 "

**REQUEST FOR PROPOSALS**

For

**CONSTRUCTION MANAGER/GENERAL CONTRACTOR  
SERVICES**

For the

**EXPO CENTER HALL D CONSTRUCTION**

MERC  
777 NE MLK, Jr. Blvd  
Portland, Oregon 97232

Issued June 1999

**METRO OPERATIONS COMMITTEE REPORT**

CONSIDERATION OF RESOLUTION NO. 99-2790 FOR THE PURPOSE OF PROVIDING AN EXEMPTION FROM THE COMPETITIVE REQUIREMENT FOR A REQUEST FOR PROPOSALS FOR THE CONSTRUCTION MANAGER/GENERAL CONTRACTOR SERVICES FOR THE EXPO HALL "D" CONSTRUCTION PROJECT.

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Date: June 2, 1999

Presented by: Councilor Kvistad

**Committee Action:** At its May 19, 1999 meeting, the Metro Operations Committee voted 2-0 to recommend Council adoption of Resolution No. 99-2790. Voting in favor: Councilors Atherton and Washington.

**Council Issues/Discussion:** Mark Williams, General Manager for MERC, gave the staff presentation. He explained that a low-bid process is not really applicable to this construction situation, which is very complex. The Construction Manager/General Manager (CMCG) approach has proved very successful for other jurisdictions, and has been used successfully at Metro in the construction of Hall E at Expo and with the Great Northwest project at the Zoo. It allows greater communication between MERC and the construction manager, and has proven to save time and money. Cost savings could be in the range of up to \$500,000, it was estimated.

The CMCG process is still a competitive procedure that is expected to see a number of firms applying. In response to committee questions, Mr. Williams said that he understood the Council's desire for construction to begin and end as quickly as possible. A ceremonial groundbreaking should take place in the fall, along with a formal dedication of Hall E.

## Staff Report

### CONSIDERATION OF RESOLUTION NO. 99-2790 FOR THE PURPOSE OF PROVIDING AN EXEMPTION FROM THE COMPETITIVE BIDDING REQUIREMENT FOR A REQUEST FOR PROPOSALS FOR THE CONSTRUCTION MANAGER/GENERAL CONTRACTOR SERVICES FOR THE EXPO HALL "D" CONSTRUCTION PROJECT

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Meeting Date: May 19, 1999

Presented by Mark Williams

#### **PROPOSED ACTION**

Resolution No. 99-2790 seeks authorization to issue a Request for Proposal (RFP) for Construction Manager/General Contractor Services contract for the Expo Hall "D" Construction Project.

#### **BACKGROUND**

On April 1, 1999, the Metro Council approved Resolution No. 99-2765 authorizing the construction of a new Hall "D" at the Expo Center. Funding for this project comes from approximately \$15.8 million of revenue bonds, which will be supported by Expo Center revenues. The project includes the replacement of existing Hall "D" which was constructed in the early 1980s to house livestock. The new Hall "D" will include 112,000 square feet of exhibit areas, meeting rooms, office space and support space, which will include kitchen, loading and storage space.

Metro and MERC staff have prepared a Request for Proposals for Construction Manager/General Contractor (CM/GC) Services which is attached hereto as Exhibit 1. The RFP for CM/GC services contemplates an alternative approach to the standard design-bid-build approach (sometimes referred to as "low-bid") which is utilized for construction contracts. This alternative requires an exemption from the sealed bidding process inherent in the design-bid-build approach. This exemption must be supported by findings which, among other things, indicate that use of the CM/GC method will not encourage favoritism or substantially diminish competition and will result in substantial cost savings.

#### **Analysis – CM/GC Services**

The CM/GC contracting method results in two separate contracts with the CM/GC contractor: one for pre-construction services and one for the construction services. The pre-construction services include project planning and scheduling, cost estimating, value engineering, constructability review and other related services. These services occur

collaboratively with both the Architect and the Owner participating fully. The construction services contract follows the pre-construction phase and is characterized by a Guaranteed Maximum Price (GMP), which is developed by the CM/GC and approved by the Owner, usually upon completion of the design development phase of project. The GMP phase is a critical milestone when the project's construction costs are established. The GMP is typically negotiated between the CM/GC and the Owner. Upon project completion, project savings (actual project costs are less than GMP) benefit the Owner. The subject RFP meets the standards and practices described above.

The procurement process used to select the CM/GC is a competitive RFP process. This process is qualifications-based procedure, whereby evaluators consider pre-established criteria to rank the proposers. Criteria typically include cost, experience with similar types of projects, proposed team members and past successes related to utilization of Minority Business Enterprises, Women Business Enterprises and Emerging Small Business firms. The selection committee, which will be utilized for this RFP process, will include Metro and MERC staff with extensive knowledge of complex construction projects and outside experts with similar expertise.

Construction projects with certain characteristics are generally known as good candidates for the CM/GC process. These characteristics are:

- Accelerated schedule – critical deadlines or significant schedule ramifications require concurrent design and construction phasing
- Technical program complexity – operational, public safety, and complex project phasing that require a cooperative team approach particularly during the pre-construction phase
- Construction complexity – difficult remodel, historic preservation or unique and complex construction components require a cooperative team approach

A group known as the Public Contracting Coalition (an informal group of government agencies, contractors and industry groups such as the Associated General Contractors of Oregon) formed a task force in 1996 and issued a CM/GC White Paper which includes recommendations for use of the CM/GC process. The White Paper recognizes the advantages of the CM/GC process for certain projects and lists a set of criteria which should be used to judge the appropriateness of the CM/GC process for proposed projects. In addition to the above listed criteria, the White Paper includes cost savings and the lack of diminished competition or encouraging favoritism which mirror the findings required by ORS.

Metro and MERC staff feel that the Expo Hall "D" project is well suited for the CM/GC process given the above listed evaluation criteria. Specifically, project success is dependent on meeting an **accelerated schedule** whereby design and construction activities are completed within a one and a half-year period. This compressed project schedule is due to the significant disruption the expansion project will have on the Expo's ongoing operations and the desire to complete the expansion in the shortest possible time in order to minimize disruption. Additionally, a successful accelerated schedule will

deliver the completed Hall "D" so that it can be used to shift large events from the Oregon Convention Center which will be undergoing a major expansion project and experiencing extreme disruption to its ongoing operations. Once the Hall "D" project is completed, the Expo Center will feature 172,000 square feet of contiguous state-of-the-art exhibit space. It is anticipated that this exhibit space will be utilized by several large events, which would normally occur at the Oregon Convention Center but will be displaced due to the Center's expansion project which will be underway for a one year period after the Expo project is complete.

The project is also burdened with **technical program complexity**. Operational issues such as "connecting" original and new building systems and scheduling construction activities during non- and low-event times will provide the entire project team, including the CM/GC contractor, with significant challenges which are best addressed cooperatively.

The project includes **construction complexity** due to the long span or column free space requirements of the building's exhibit space. Bringing the construction contractor on board in the early phases of the project's design will provide valuable and practical advice regarding these long-span requirements as well as a myriad of other construction-related details.

**Cost savings** will accrue to the project in a number of ways. The accelerated schedule, which cuts approximately three to six months from the project schedule, will result in approximately \$150,000 – \$300,000 in project management savings. In addition the CM/GC process is generally known to result in fewer claims and less change order activity. Project staff have estimated that savings related to these two items would be \$238,000, based on a construction cost of \$14,000,000. Lastly, significant cost savings are expected to result from a rigorous value engineering phase, which is a key element of the process. Project staff expect that cost savings due to value engineering will be between \$350,000 and \$500,000. This estimate is based on experience of the Expo Hall "E" project. The total of these cost savings, which are estimated at nearly \$1,000,000, will be spent within the project based on the project goal of building "the best building for the set budget".

In addition to these cost savings, the CM/GC method is expected to result in additional revenue earned by the newly expanded Expo Center. This revenue is derived from the accelerated schedule and result in two manners. First, the accelerated schedule is expected to eliminate approximately 3 to 6 months from the project schedule. It is anticipated that the Expo Center will earn nearly \$33,000 more in revenues (parking, concession and building rental) due to early delivery of Hall "D". Secondly, MERC staff expect that several events and shows will be diverted to the Expo Center from the Oregon Convention Center during the Convention Center's expansion project. These shows and events will supplement Expo revenues by an estimated amount of \$53,000.

**Competition** is expected to be keen among qualified general contractors interested in the CM/GC contract. Metro and MERC staff have received inquiries regarding the project



from several firms. In both prior CM/GC proposal processes (Expo addition and the zoo's Great Northwest Exhibit), five proposals were received, thereby providing ample competition. In addition, the CM/GC contract continues to maintain competition at the subcontract level where virtually 75-85% of the construction work is competitively bid.

As noted by the Public Contracting Coalition CM/GC White Paper, a critically important aspect of alternative contracting is a fair and open selection process that allows all qualified firms to compete on a level playing field. To ensure such a process and to **avoid favoritism**, Metro and MERC staff have prepared an RFP which conforms to guidelines contained in the White Paper. This process includes advertising in major trade newspapers, an interview phase with a selected short list of proposers and a selection committee with outside experts in the field of construction.

A final comment in the White Paper relates to the ability of the Owner to manage the CM/GC effectively. In addition to justifying the appropriateness of a particular project utilizing the above listed criteria, the White Paper stresses that a public agency considering CM/GC should have either in-house or contracted expertise to administer the project. Metro and MERC staff are currently developing an internal project management plan. This plan will include three key staff members who have had extensive public contracting experience, including practical knowledge derived from work on three major CM/GC projects.

The CM/GC method has been widely used by several state and local governments in the past several years. Its use appears to be increasing as government agencies and contractors alike gain experience with the method. Metro has successfully utilized the CM/GC method in one past project, the Expo Hall "E" completed in 1996, and is currently employing the method for the Great Northwest Project which is being built at the Oregon Zoo. Metro's CM/GC experience related to both of these projects has been positive to date. The previous Expo project, in particular, is an example of a CM/GC success. The building was delivered within an accelerated project schedule of 14 months (design and construction) and within the project's GMP of \$12.1 million. Actual construction costs were \$11.8 million. It is unlikely that a traditional contracting approach could have been successful given the extremely tight schedule.

Metro and MERC staff met with Associated General Contractor (AGC) representatives and selected members to discuss potential project delivery methods. At this meeting, the proposed project's unique schedule, operational and construction challenges were discussed at length. At the conclusion of the meeting, those participating generally agreed that given these issues, the CM/GC method was best suited for the project.

#### **FISCAL IMPACT**

The project will be funded with revenue bonds.

#### **RECOMMENDATION**

The Executive Officer recommends adoption of Resolution No. 99-2790.