

IN THE BOARD OF COMMISSIONERS OF THE  
HOUSING AND COMMUNITY SERVICES AGENCY  
OF LANE COUNTY, OREGON

ORDER 22-14-12-01H

In the Matter of the Joint Order of the Board of Commissioners and Local Contract Review Board Exempting the Construction of the Naval Reserve and Quince Street Developments from Competitive Bidding Requirements and Directing the Use of the Construction Manager General Contractor Alternative Contracting Method

WHEREAS, the Board of Commissioners of Homes for Good Housing Agency, Oregon (Agency) acts as the Agency's Local Contract Review Board (LCRB) (collectively, "Boards"), pursuant to ORS 279A.060; and

WHEREAS, pursuant to Oregon Revised Statutes (ORS) 279C.335(1), all public improvement contracts shall be based on competitive bids except those exempted by the LCRB; and

WHEREAS, pursuant to ORS 279C.336(2), the LCRB may exempt certain contracts from the traditional competitive bidding process after holding a public hearing and adopting findings demonstrating that an alternative contracting process is unlikely to encourage favoritism or diminish competition and will result in substantial cost savings to the public agency; and

WHEREAS, the Construction Manager General Contractor (CMGC) is an alternative contracting method that provides project delivery in which the owner executes a single contract with one entity to provide construction management and general contractor services; and

WHEREAS, the CMGC is selected before design is complete, and as a result can provide valuable advice from a construction perspective to help ensure a design that fosters smooth and cost-effective construction; and

WHEREAS, the Agency is in the predevelopment process for both projects referenced above; and

WHEREAS, the Public Contracting Code divides powers and duties for contracting into two categories, those that must be performed by the LCRB, and those that must be performed by the "Contracting Agency"; and

WHEREAS, to make use of a CMGC alternative contracting method, ORS 279C.335 and Agency Rule 137-049-0620 require the Board of Commissioners to submit findings to the LCRB which support the LCRB exempting the Project from competitive bidding requirements; and

WHEREAS, as provided in ORS 279C.335(5), the Agency published notice of the public hearing where the Boards would consider this Order once in the Daily Journal of Commerce, not less than 14 days before the hearing; and

WHEREAS, the LCRB considered the findings presented to the Board of Commissioners, as set forth in the attached Exhibit A, supporting the use of the CMGC alternative contracting method; and

WHEREAS, the Boards considered public testimony regarding the use of the CM/GC method at the public hearing offered at the Board meeting held on December 14, 2022; and

WHEREAS, the Boards, being fully advised, find and conclude as follows:


1. It is unlikely that the use of the CMGC method will encourage favoritism in the awarding of a public improvement contract or will encourage favoritism in the awarding of a public improvement contract or will substantially diminish competition for a public improvement contract; and
2. The use of the CMGC process ensures early contractor input during the design construction planning processes and is expected to contribute to the ability to manage the costs of construction against approved budgets; and
3. The Agency has complied with all procedures under ORS 279C.335.

NOW, THEREFORE, it is hereby resolved as follows:

1. Findings. The above recitals, and those set forth on the attached Exhibit A, are hereby adopted by the Agency Board of Commissioners, sitting as the LCRB, as findings of fact supporting approval of the Agency Board of Commissioner's request for use of a CMGC alternative contracting method for Agency's projects.


2. CMGC Exemptions. Use of a CMGC alternative contracting method is found to be in the Agency's best interests. The requested exemption is, therefore, approved and the Executive Director or Designee is hereby authorized to enter into a CMGC contract for the projects referenced above.

DATED this 15th day of December, 2022.

  
Charene M. Reavis (Dec 15, 2022 18:48 PST)  
\_\_\_\_\_  
Chair,  
Board of Commissioners

ATTEST:  
  
\_\_\_\_\_  
Secretary,  
Board of Commissioners

  
Charene M. Reavis (Dec 15, 2022 18:48 PST)  
\_\_\_\_\_  
President,  
Local Contract Review Board

ATTEST:  
  
\_\_\_\_\_  
Secretary,  
Local Contract Review Board

**Exhibit A**  
**Naval Reserve & Quince Street Affordable Housing Developments**

**CMGC EXEMPTION FINDINGS**  
**ORS 279C.330(1) and ORS 279C.335(2)(b)**

1. Firms Available to Bid. All interested and qualified contractors will have an opportunity to provide a response to the RFP, which was advertised in the *Daily Journal of Commerce*.

2. Operational, Budget, and Financial Data. The approximate cost of the work to be performed under the construction contract for the Naval Reserve and Quince Street developments (Projects) are estimated at \$29,000,000 and \$35,000,000, respectively. Having a CMGC involved early in the construction phasing will allow the Agency to work with the contractor to develop construction plans that will minimize impacts to the neighboring businesses and their functions. The utilization of the CMGC method has been shown in its use by other agencies in Oregon to alleviate financial risk due to minimizing delay and requests for additional work and change orders. It is anticipated that the Agency will find that reduced risks provide a significant value and substantial cost savings to the Agency.

3. Public Benefit. A CMGC coordinated approach increases the ability for Agency to mitigate the risk of structure failure and to continue to provide a dedicated standard of care to the public. There will be a general public benefit from the expeditious construction of the Projects by improving the facilities while minimizing impacts to residents. In addition, the public will benefit from the improved quality and lower cost of the Projects anticipated through use of the CMGC process. Approving the CMGC exemption will allow a contractor to be hired earlier in the process than the traditional design-bid-build process. In turn, this better enables the Agency to complete the Projects on time. Creating a project team at the start of the Projects, comprised of the Architect, the Agency, and CMGC creates a more informed and better-quality decision-making process. A more efficient construction team reduces the Agency's financial exposure and enhances delivery of the Projects. The Agency, therefore, finds that the CMGC alternative contracting method is required to ensure a qualified general contractor is retained for these complex Projects, while addressing time and cost constraints. In addition, the CMGC approach allows an early coordinated effort to reach minority and women owned businesses to subcontract with, which furthers goals in Homes for Good's Strategic Equity Plan.

4. Value Engineering. The RFP selection process, early involvement of the contractor, and negotiated contract approach gives the contractor a significant opportunity to engage in value engineering (i.e. the evaluation of what a system does as compared to cost). The selected CMGC will be brought on board following award of a

contract in order to assist the Projects' teams with construction scheduling, phasing, costing, operator interaction issues, quality assurance, and design constructability reviews. The selected CMGC will also advise the Agency and the design team regarding specialty construction issues and any long lead time procurements. CMGC contributions to the design phase permit a collaborative approach to value engineering which ultimately translates into time and cost savings realized by the Agency. Construction issues which may not otherwise be known to the design team can be factored in and addressed while the design is drafted. In turn, this results in a higher quality product, lower costs, and a telescoped timeline.

5. Specialized Expertise. Building the Projects using public funding from Tax Credits and other funding from the City and State requires expertise in managing timelines that are different than typical projects. It is important to utilize a general contractor that has demonstrated expertise in managing, scheduling, and performing under these conditions in a satisfactory manner. Therefore, the Agency finds that selecting a firm through an RFP process allows the Agency to contract with a firm with the appropriate CMGC expertise. The necessary mix of experience and expertise for a CMGC contractor cannot be adequately evaluated in a formal lowest responsible bid selection process. A qualified project manager with strong leadership skills is one of the components required for a successful CMGC project. The RFP process allows the Agency to review the qualifications of each proposer's project manager and confirm the manager's ability, experience, record of quality, past performance and integrity needed to carry out the proposer's contractual obligations. The process will also allow the Agency to identify qualified teams that have met critical deadlines in past developments and that have the ability of work collaboratively to meet the Projects' needs. The costs for such specialized expertise are included in the overall Projects' budgets and will be included within accepted Guaranteed Maximum Prices (GMPs).

6. Public Safety. Efficient completion of the Projects will provide a safe and healthy environment for residents and neighbors.

7. Funding Source. The Agency will finance the Projects through a variety of public and private funds. Therefore, it is critical for the Projects to come in on budget and on time from both legal and public perception perspectives. The CMGC process, with its maximum price provisions, value engineering potential, constant oversight from a project manager, and construction input beginning in the design phase will help the Agency stay within its budget and wisely spend public funds.

8. Market Conditions. Identifying and contracting with the full project team for both Projects at an early stage will allow the Agency to capitalize on current market conditions, rather than having them affect a later bid/build phase. Such cost and market variables can be anticipated in the GMP, but ultimately should have no effect on the Agency. The CM/GC subcontractors cannot go over the GMP, but may come in under the

GMP, and the Agency will realize those cost differences. Having a qualified CMGC play a role as an integrated team member early in the Projects with the Agency, the Architect and other Projects' members provides advantage to the Agency, as it adds expertise to the design phase which translates into Agency savings and provides more budgetary certainty.

No negative financial impacts to the Agency are expected as a result of using the RFP solicitation process to select a CMGC for these Projects. There is a sufficient pool of qualified Oregon-based construction companies with expertise in the type and size of the planned Projects, and there are additional qualified firms located in the greater Pacific Northwest. A substantial number of competitors submitted proposals for these Projects, which allows the Agency to select from among a number of qualified contractors.

9. Technical Complexity. Because of site and schedule constraints, effective project planning and coordination will be crucial among the Agency, project manager, Architect and CMGC. Strong budget and schedule controls will be essential. The conventional design-bid-build approach would contain too much risk for the Agency on the Projects. The CMGC will bring specific construction expertise to the team process and assist in addressing specific challenges as part of its pre-construction services. The CMGC method encourages innovative planning and coordination that further improve the construction schedule and on-site conditions. The ability to coordinate and manage the Projects would be especially challenging to an inexperienced or narrowly-focused team. The RFP process allows the Agency to consider the proposer's experience and expertise in completing this type of work, its sensitivity to safety, legal, and operational issues, and the qualifications and experience of its project manager and support team.

10. New Construction or Renovation of an Existing Structure. The Projects both involve new construction.

11. Occupied or Unoccupied During Construction. The Projects will be new construction and will not be occupied during construction.

12. Single Phase or Multiple Phases of Construction Work to Address Specific Project Conditions. The Projects include a multiplicity of technical issues related to structural, electrical systems, piping systems, HVAC systems, and fire alarm and security systems, as well as complex sequencing and phasing of work. It is important to the success of both budget and schedule that the Agency have a general contractor that understands this complexity, has the ability to manage this type of complex Projects and develops bid instructions to attract appropriate subcontractors to perform the work. The Agency, therefore, finds that selecting a firm through the CMGC method allows the Agency to contract with a firm with the needed technical phasing expertise.

13. Whether the Agency has the Personnel, Consultants and Legal Counsel that have Necessary Expertise and Substantial Experience in Alternative Contracting Methods. Staff, in conjunction with the Architect (who was chosen based upon qualifications and experience with the CMGC project delivery model), an experienced contractor, as well as other team members and the Agency Legal Counsel, together, will have the level of expertise with the CMGC alternative contracting method needed to produce a high-quality outcome. The Agency acknowledges that the expertise will come primarily from non-staff elements

14. Unlikely to Encourage Favoritism or Substantially Diminish Competition. As noted in Finding 1, CMGC competition was encouraged through the use of an RFP solicitation process, with notice of the RFP published so as to reach a wide range of potentially interested proposers. No reduction of competition is expected since the RFP for this CM/GC contract was advertised in the same manner as a traditional low bid solicitation, with full disclosure of the planned CMGC alternative contracting method. Uniform evaluation criteria were used in the selection of the CMGC firm for both Projects, and the construction work elements will be subcontracted and procured through open competitive bids managed by the CMGC and based on identified selection criteria. Favoritism cannot play a role in the selection of the CMGC, as award was based upon set, weighted RFP criteria. All qualified firms were able to participate in an open, competitive selection process, with an opportunity to protest the award before it was final.

15. Will Result in Substantial Cost Savings. The CMGC contracting method has the potential to achieve substantial cost savings for the Agency through the involvement of the contractor in the design phase of the Projects. Early input by the CMGC during the design process is expected to contribute to general cost savings through constructability assessments, life cycle cost analysis, and value engineering. By having the CMGC available before the design is finalized, the contractor is able to participate in the design, propose cost saving revisions, and ensure the constructability of the Projects so that costly change orders are less likely.

Cost savings will also be realized because, through the RFP selection process, the Agency will select a well-organized, experienced CMGC for both Projects. This should also lead to fewer change orders and, in turn, reduce staff and Architect time to design, negotiate, and administer the changes.

Lastly, the CMGC method allows for early procurement of major equipment, allowing the Projects to avoid cost increases due to material shortages or cost escalation. If subcontracted costs are less than identified in the guaranteed maximum price, some or all of the savings will be passed on to the Agency under the agreement required of the CMGC.

16. Time Savings. An exempt CMGC process allows the Agency to condense the overall time required to complete construction of the Projects by enabling the Agency

to procure construction services simultaneously or shortly after soliciting Architect services. Having the CMGC on board early in the process allows for coordination in the development of the construction schedules and the initiation of early site work, where advantageous or warranted. This can help to shorten construction periods and minimize construction operational impacts. Early detection of potential construction difficulties, from a contractor's view, can also prevent potential delays and costly and time-consuming change orders.










# Board Order Alternative CMGC Methods Naval Reserve Quince Street

Final Audit Report

2022-12-16

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