

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS
Sitting/Acting as:
Board of Commissioners of the Housing Authority of Clackamas County (HACC)

Policy Session Worksheet

Presentation Date: 5/15/18 **Approx. Start Time:** 10:30 AM **Approx. Length:** 1 hour
Presentation Title: Hillside Manor Renovation- Construction Manager / General Contractor Procurement Exemption

Department: Health, Housing, and Human Services (H3S)

Presenters: George Marlton, Procurement Division Director, and Chuck Robbins, Housing Authority of Clackamas County (HACC) Executive Director

Other Invitees: Amanda Keller, Assistant County Counsel; Mary-Rain O'Meara, Housing Development Coordinator (HACC)

WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

- 1) Approval to proceed with procurement of a Construction Manager/General Contractor and approval to place Resolution #1930 on the May 17th, 2018 Housing Authority Board of Commissioners Consent Agenda

BACKGROUND:

Hillside Manor is a 100 unit, 9 story residential building, originally constructed in 1970, serving low income households with incomes between 0 - 80% Area Median Income (AMI). The building has been owned and operated by the Housing Authority of Clackamas County (HACC) since original construction. In December of 2017, HACC received approval from the US Department of Housing and Urban Development (HUD) to convert Hillside Manor to a project based Section 8 subsidy under the Rental Assistance Demonstration (RAD) program for Public Housing properties. RAD enables HACC to pursue funding through the Low Income Housing Tax Credit (LIHTC) program to leverage debt and other fund sources and complete renovations on the building.

HACC proposes a robust rehabilitation of Hillside Manor, resulting from extensive assessments, including the Architectural and Engineering team, the Capital Needs Assessment (CAN) evaluator and the environmental engineer, as well as observations provided by Property Management and the residents themselves. The scope involves significant seismic upgrades to boost the structural integrity and safety of the building; abatement of asbestos and lead paint common to the era the building was originally constructed; replacement of antiquated building systems, such as the elevators, plumbing and heating systems; electrical and lighting upgrades; accessibility upgrades; and interior upgrades to residential units and common areas that will drastically improve livability for the residents and extend the building's useful life for a minimum of 30 years.

Based on building evaluations, improvements to the building skin are not necessary; the building skin does not show signs of leaking or infiltration and new vinyl windows and a new roof

were installed in 2004 and 2011, respectively, and are in excellent condition. A number of interior energy efficiency upgrades are a part of the proposed scope of work and include the replacement of all incandescent and fluorescent lighting to LED fixtures, new PTAC units within the apartments, installation of low flow toilets, shower heads and faucets, and new energy star rated appliances.

CONSTRUCTION MANAGER / GENERAL CONTRACTOR (CM/GC) PROCUREMENT:

HACC has a full Architectural and engineering team in place for the Hillside Manor Renovation and proposed to procure a Construction Manager/ General Contractor to provide pre-construction services and complete the physical renovations at the building.

As a member of the design team the CM/GC is involved with design development; provides constructability reviews; provides value engineering; scheduling; estimating; and sub-contracting services; and establishes a "Guaranteed Maximum Price" (GMP) to complete the work as may be allowed under the contract. The construction manager becomes the general contractor once the fieldwork begins.

Important advantages of the CM/GC approach for this project are that the process ensures the proposed project can be constructed within a specific budget and on as rapid a schedule as possible. These factors are of particular importance with regard to the project for several reasons:

1. The CM/GC approach will provide for an accelerated project timeline that will assist HACC in addressing the critical scope of work items quickly at Hillside Manor, while meeting critical financial milestones required by third parties.
2. The selection of construction methods and sequencing will benefit the project significantly by involving a single entity for both management and construction of the site improvements. The CM/GC approach provides HACC with many alternative approaches to the project. Therefore, it is less likely that an optimal solution will be overlooked due to time and resource constraints.
3. Project costs may be lower because of the close working relationship between the designer and constructor. This may lead to incorporation of more economical design features and the application of cost-saving construction methods while optimizing the final product within the project budget.
4. The project may proceed more efficiently because designers and constructors are members of the same team thereby fostering a cooperative exchange of ideas. This dynamic will allow for design efficiencies to be woven into the construction process and allow for resolution of design issues that arise during construction.
5. HACC gains the opportunity to fix the total project cost early in the process cooperatively with the CM/GC team.
6. HACC's administrative burden for the project is reduced by conducting one solicitation for the project, as opposed to conducting multiple solicitations for a design/ bid/ build approach.

7. One of the highest potential areas for claims filed by subcontractors, or excessive bid costs involves issues related to perceived schedule difficulties, delays and disruptions in the workflow. This type of project is especially prone to such problems if not continually and carefully supervised. Construction expertise and considerations for constructability are incorporated into the project because the CM/GC is working closely with the design team and HACC. Resolution of construction conflicts or deficiencies is the responsibility of the CM/GC entity, not HACC.

CM/GC is a collaborative model which helps boost transparency and efficiency for the owner during a pivotal phase of the project. It's an industry recognized alternative to the standard Design-Bid-Build process and is an ideal alternative for a complicated remodel project like Hillside Manor.

At the May 17th, 2018 Housing Authority Board Meeting, HACC will request approval for an exemption to the typical procurement process to utilize a Request for Proposals method of obtaining a CM/GC contractor. Given the complexity of the project scope, this procurement method will allow for a qualifications based competitive selection of a General Contractor.

Pending the HACC Board's approval of the exemption on May 17th, 2018, HACC will proceed with the procurement method for the CM/GC, with the assistance of Clackamas County Procurement and County Counsel. The following competitive process will be used for the selection of the CM/GC:

1. Publicly advertise a Request for Proposal ("RFP").
2. The contractor will be selected through an evaluation process that will consider qualifications, construction team experience and will include both a technical proposal and fee proposal.
3. The submitted proposals will be reviewed and scored by the Selection Committee. Points will be awarded based on the relative merit of the information provided in response to the solicitation. The highest rated response in each area will be given the maximum number of points available. HACC may ask proposers to make oral presentations to discuss and clarify the submitted proposal.
4. The Selection Committee will provide a recommendation to the Board of HACC for their consideration.

PROJECT TIMELINE:

OHCS Tax Credit Award Announcement: August 2018

Contractor Selected: September 2018

Pre-Construction and Detailed Design: September 2018- April 2019

Plans Complete: April 26, 2019

Final Bids: May 10, 2019

Construction Begins: May 13, 2019

Construction Completed, September 25, 2020

FINANCIAL IMPLICATIONS (current year and ongoing):

Is this item in your current budget? YES NO

What is the cost? Total construction cost for the project, is \$15,184,905. Total Development Cost is \$32,627,272, including an Acquisition of the site in the amount of \$11,700,000 that is lent to the project and reimbursed back to the Housing Authority. Completion of the project is contingent upon a successful Low Income Tax Credit Award from Oregon Housing and Community Services.

What is the funding source?

- 1) Low Income Housing Tax Credits and Equity (pending): \$18,333,766
- 2) Clackamas County HOME Award (committed, pending tax credit award): \$500,000
- 3) Federal Housing Trust Fund Award (pending): \$500,000
- 4) Permanent Loan (pending tax credit award): \$400,000
- 5) HACC Seller Financing (acquisition): \$11,700,000
- 6) Multi Family Energy Incentives (committed, pending tax credit award): \$42,805
- 7) Cash Flow during rehab: \$216,282

STRATEGIC PLAN ALIGNMENT:

- How does this item align with your Department's Strategic Business Plan goals?
 - Sustainable and Affordable Housing
- How does this item align with the County's Performance Clackamas goals?
 - Ensure safe, healthy and secure communities

LEGAL/POLICY REQUIREMENTS:

Any future action will require approval from the HACC Board

PUBLIC/GOVERNMENTAL PARTICIPATION: N/A

OPTIONS:

- Authorize HACC to proceed with the procurement of Construction Manager / General Contractor, with the assistance of Clackamas County Procurement and County Counsel, using a competitive process identified above.
- Schedule an additional policy session for further discussion of the CM/GC Procurement.
- Reject the procurement of Construction Manager / General Contractor.

RECOMMENDATION

Staff recommends the HACC Board authorize HACC to move forward with the CM/GC procurement for the Hillside Manor Rehabilitation project and that an exception to the typical procurement process be added to the May 17th Consent Agenda.

ATTACHMENTS:

1. Draft Resolution No. 1930
2. Exhibit A as an attachment to Resolution No. 1930

SUBMITTED BY:

Division Director/Head Approval _____

Department Director/Head Approval _____

County Administrator Approval _____

For information on this issue or copies of attachments, please contact Chuck Robbins @ 503-655-8591

In the Matter of Approving a Resolution
Granting Exemption from Competitive
Bidding for the Hillside Manor Renovation
Project by Means of a Construction
Manager/General Contractor and
Authorizing Selection by Request for
Proposals

Resolution No. 1930

WHEREAS, the Board of the Housing Authority of Clackamas County (“Board”) acts as the local contract review board for the Housing Authority of Clackamas County (“HACC”), and in that capacity, has authority to exempt certain contracts from the competitive bidding requirements of ORS Chapter 279C; and

WHEREAS, ORS 279C.335 provides a process for exempting certain contracts from competitive bidding and authorizes the selection of a contractor through the request for proposal (“RFP”) process; and

WHEREAS, draft findings, attached hereto as Exhibit A and incorporated herein (“Findings”), addressing competition, operational, budget and financial data, public benefits, value engineering, specialized expertise required, market conditions, technical complexity, public safety and funding sources recommended by the HACC were available 14 days in advance of the public hearing on this Resolution as related to the Hillside Manor Renovation Project (“Project”); and

WHEREAS, the Findings also highlight the public benefits of using the Construction Manager/General Contractor method of contracting for the Project;

WHEREAS, the Board has reviewed the Findings and is satisfied with the supporting information and materials that has been provided to justify the application of the exemption and the use of the RFP process in its place;

NOW THEREFORE, BE IT RESOLVED BY BOARD OF THE HOUSING AUTHORITY OF CLACKAMAS COUNTY THAT:

1. The Board adopts the Findings, as set forth in Exhibit A to this Resolution, and makes the following additional findings:
 - a. The exemption from competitive bidding will promote competition and will not encourage favoritism, because the contractor will be chosen by the RFP process, and the major portion of the construction work may be performed by subcontractors chosen by competitive bidding.
 - b. The exemption from competitive bidding is likely to result in substantial cost savings to HACC, for the reasons set forth in the adopted Findings.

In the Matter of Approving a Resolution
Granting Exemption from Competitive
Bidding for the Hillside Manor Renovation
Project by Means of a Construction
Manager/General Contractor and
Authorizing Selection by Request for
Proposals

Resolution No. 1930
(Cont'd)

2. The Board authorizes the Housing Authority of Clackamas County to proceed with the procurement of Construction Manager/General Contractor services for the Project using the Request for Proposals process in accordance with the Attorney General Model Rules under ORS 279A.065(3).

ADOPTED this 17 day of May, 2018.

HOUSING AUTHORITY OF CLACKAMAS COUNTY BOARD:

Chair

Recording Secretary

Exhibit A

Findings – Hillside Manor Renovation Project

FINDINGS IN SUPPORT OF USE OF REQUEST FOR PROPOSALS AND ALTERNATIVE CONTRACTING METHODS

Revised 5/3/2018

These Findings are for the exemption for the Housing Authority of Clackamas County's ("HACC") Hillside Manor Renovation Project ("Project") from the traditional competitive procurement process and authorizing the use of an alternative competitive procurement method using the request for proposals ("RFP") process.

A. HACC recommendation for an exemption from the traditional bidding process and authorization to use the alternative RFP competitive procurement process for the Project

Oregon law requires all contracts for public improvement projects be based on competitive bids unless the local contract review board grants an exemption under ORS 279C.335. ORS 279C.335(2) requires the local contract review board to approve two findings submitted by the agency: (1) that the exemption is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition; and (2) awarding a public improvement contract under the exemption will likely result in substantial cost savings and other substantial benefits to the public agency.

ORS 279C.335 allows for the exemption of a specific public improvement contract or a class of public improvement contracts from the traditional competitive bidding requirement. For this Project, HACC is requesting an exemption of a specific public improvement contract.

For public improvement projects, ORS 279C.330 and 279C.335 provide that the agency must consider the type, cost and amount of the contract(s) and information regarding the following:

- a. Operational, budget and financial data;
- b. Public benefits;
- c. Value engineering;
- d. Specialized expertise required;
- e. Public safety;
- f. Market conditions;
- g. Technical complexity; and
- h. Funding sources;

This request is to approve a Project specific exemption from the traditional competitive procurement process and authorizing the use of an alternative competitive procurement method using the request for proposals ("RFP") process.

The local contract review board also is required to consider the following items when evaluating whether award of a public improvement contract under the exemption will likely result in substantial cost savings and other substantial benefits to the public agency:

- a. How many persons are available to bid;
- b. The construction budget and the projected operating costs for the completed public improvement;
- c. Public benefits that may result from granting the exemption;
- d. Whether value engineering techniques may decrease the cost of the public improvement;

- e. The cost and availability of specialized expertise that is necessary for the public improvement;
- f. Any likely increases in public safety;
- g. Whether granting the exemption may reduce risks to the contracting agency or the public that are related to the public improvement;
- h. Whether granting the exemption will affect the sources of funding for the public improvement;
- i. 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;
- j. Whether granting the exemption will better enable the contracting agency to address the size and technical complexity of the public improvement;
- k. Whether the public improvement involves new construction or renovates or remodels an existing structure;
- l. Whether the public improvement will be occupied or unoccupied during construction;
- m. Whether the public improvement will require a single phase of construction work or multiple phases of construction work to address specific project conditions; and
- n. Whether the contracting agency has and will use contracting 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 will use to award the public improvement contract and to help negotiate, administer and enforce the terms of the public improvement contract.

B. Background Information

HACC is beginning a revitalization and redevelopment process for its aging public housing communities. The mechanism for achieving this revitalization is through the U.S. Department of Housing and Urban Development's ("HUD") Rental Assistance Demonstration ("RAD") program. RAD allows for Public Housing properties to be converted to a Section 8 project based voucher subsidy, and enables the Housing Authority to leverage debt and other sources of financing to achieve rehabilitation and redevelopment.

RAD is a necessary program given waning federal support, mounting capital needs, and growing demand for affordable housing. Without this conversion tool, HACC's ability to invest in its public housing portfolio is severely limited.

HACC has received RAD approval from HUD to begin its public housing conversion process at its Hillside Public Housing community in Milwaukie, OR. The first phase of the RAD conversion is the rehabilitation of Hillside Manor, a 9 story, 100-unit building that provides housing to the elderly and people with disabilities.

HACC is embarking on a strategic redevelopment and revitalization effort for its public housing portfolio to meet the growing demand for affordable housing and replace aging, inefficient units. The housing production goal for the County is 2,000 new affordable units by 2027, and participation in the RAD program is crucial to meeting this goal.

Currently over 4,000 households are on the waiting list to access affordable housing through Clackamas County's Public Housing and Section 8 Voucher programs. HACC can no longer justify the underutilization of its assets while amidst a region-wide affordable housing crisis.

Through redevelopment of its public housing communities, HACC can achieve nearly half of its development production goal, with acquisition of vacant land and existing multi-family properties comprising the remaining development strategy.

The proposed Project is one that has been developed and refined by the RAD consultant, Architect, Property Management, as well as Structural, Mechanical and Electrical engineers. The scope of work is one that anticipates replacing and upgrading aging building systems within the existing structure while the residential building is partially occupied. The proposed scope of work includes replacing the existing elevators, incorporating a seismic upgrade, replacing the original plumbing piping and fixtures, upgrading and repairing the existing HVAC system, bringing the electrical system up to current code, abating materials with asbestos and replacing interior finishes and cabinetry much of which is still original to the building.

Because of the intricate nature of the proposed scope of work, along with the substantial relocation efforts necessary to complete the work, a CM/GC is the preferred project delivery methodology for the project.

The CM/GC method is where the owner hires the construction contractor to provide feedback during the design phase before the start of construction. The benefits of the CM/GC methods include fostering innovation, mitigating risk, improving design quality, improving cost control, and optimizing construction schedules. The other benefit of the CM/GC method is that the design firm and construction contractor will develop of guaranteed maximum price (“GMP”) that ensures the Project is completed within scope, timeline and budget.

The Hillside Manor Renovation process is complex due to many factors. The nature of the scope of work is such that it will take time for a contractor to understand the inner workings of the existing building. The schedule requirements that are a part of the financing obligations requires a timely transfer between design and implementation. Packaging and marketing the construction procurements, which will include HACC’s economic equity requirements (prevailing wage, workplace apprenticeship and minority, women, and emerging small business outreach and Section 3 requirements) to meet the demands of a busy construction marketplace add complication. Lastly, the nature of occupied rehabilitation work itself adds to the initiative’s complexity.

These elements suggest that maximum flexibility and an agile approach must be in place to support this initiative’s success. One element of this flexibility is the ability to employ alternative contracting methods such as CM/GC. A contract specific exemption for this Project would provide that flexibility to the County Procurement and HACC staff to undertake this alternative procurement process. Notwithstanding, the contract specific exemption being in place, the contractor procurement will go through a formal RFP procurement process and the resulting construction contract would be presented to the Board for its review and approval. Based on the Hillside Manor Renovation’s complications and complexities, County Procurement and HACC staff recommend a contract specific exemption to the procurement process for this Project and authorize the use of the CM/GC contracting method.

C. Findings

1. Appropriate alternative procurement method will be used.

The qualifications-based request for proposals (“RFP”) process for selecting contractors for this contract specific exception falls squarely within the purview of ORS 279C.335(2)

because the process is competitive and contractors will be selected based not only on price but also on their ability to best complete the Project. The RFP process is widely used and recognized as one of the preferred alternative approaches where, as here, the projects are technically complex, time-constrained, and involve renovation work. In addition, time-constrained renovation projects are often targeted for the RFP process (rather than the competitive bid process) because of the intricacies related to the short schedule and extensive coordination issues that arise in such projects. HACC anticipates using one-step RFP processes for the solicitations covered under this contract specific exemption. However, the actual RFP processes will be set out in each solicitation document and may include other competitive processes allowed under Oregon law.

2. No favoritism or diminished competition.

To assure HACC's Board of Commissioners that this exemption does not encourage favoritism or substantially diminish competition, a well-defined, very competitive procedure will be followed to select the contractor for this public improvement contract.

The steps taken to ensure maximum competition and fair opportunity for this public improvement contract will include advertisements in the Business Tribune, local community newspapers (as applicable), postings on the County and HACC's internet web page, and State of Oregon procurement website (aka ORPIN). Further steps include direct outreach to qualified CM/GC contractors, scheduling a pre-proposal conference for the proposal process, and appointment of unbiased evaluation committee that will consider proposals received utilizing the criteria identified in the RFP. HACC staff believes that market conditions are such that many of the same contractors who would bid the project under a traditional competitive bid procurement will compete in the qualifications-based RFP process.

Additionally, during the subcontractor bidding phases of the project, outreach to the minority, women-owned, and emerging small business ("MWESB") and Section 3 community, will be conducted to inform this audience of bidding opportunities.

By marketing these opportunities and working to notify all likely potential respondents, HACC will implement a process that does not encourage favoritism in the awarding of this class of public contracts nor substantially diminish competition. Use of alternative contracting methods will also allow HACC to identify prime contractors prior to award of any construction subcontracts so that HACC can work with contractors to maximize opportunities for participation by all potential subcontractors, including MWESB and Section 3 businesses.

In addition, HACC will form an evaluation committee to review the prospective contractor's proposals in detail, conduct interviews if desired, and make recommendations for awards based on specific evaluation criteria set forth in the RFP.

The evaluation criteria may include, among other things, consideration of the contractor's background, references, experience, capacity, personnel, client relations, schedule, quality control, and problem and solution identification. In addition, the proposals will include, where appropriate, an evaluation of the contractors' fee proposals for providing preconstruction services and overhead and profit fee rates for performing construction work. The evaluation criteria will be used by the committee to score proposals using a

scoring system that quantifies the value for each criterion and assures that proposers are fairly evaluated based on criteria set forth in the RFP.

3. Awarding a public improvement contract under the exemption will likely result in substantial cost savings and other substantial benefits to the public agency.

HACC's experience is that competitive-bid contracting for work of this nature is likely to result in numerous change orders and increased costs through claims. Construction delays can occur when the design requires "re-working" after a contractor is identified and when the maximum amount of benefits from value engineering are not realized. A competitive request for proposals procurement resulting in a CM/GC contract will allow HACC to select contractors based upon criteria in addition to price. It will allow selection of a contractor whose proven experience matches the nature of the required work, in both the design and the construction phases. CM/GC contracts are more easily structured to accommodate variable and changing conditions while minimizing costly, distracting, and disruptive change orders and claims.

By involving the contractor during design, HACC has the capacity to obtain real-time market pricing information. This pricing will facilitate more accurate assessment of design options and maximize opportunities for value engineering, resulting in cost savings that cannot be achieved by the traditional competitive-bid process. The involvement of the CM/GC contractor will allow phasing of the bidding and construction more effectively. This will significantly mitigate schedule impacts with a resulting cost savings in material/labor inflation and construction general conditions.

As the analysis of each of the below factors shows, award of this class of contracts for the Hillside Manor Renovation project pursuant to an exemption will result in substantial cost savings and other substantial benefits to HACC.

- a. *How many persons are available to bid.*

Beyond the finding that many of the same contractors would bid on the projects if they were competitively bid, there are numerous contractors that would be interested in submitting bids or proposals for the projects.

- b. *The construction budget and the projected operating costs for the completed public improvement.*

The construction budget totals approximately \$15,000,000, and was prepared by a third party construction cost estimator in conjunction with input from the Architectural and Engineering Team, RAD consultants and HACC staff. As the contract is established, the project budget will become fixed by a Guaranteed Maximum Price ("GMP") negotiation, including limited contractor's contingencies. The budgets will likely include a variety of public sources including Low Income Tax Credits, Clackamas County HOME and Housing Trust Fund, in addition to private debt. HACC will be able to minimize the risk of design changes, construction delays and claims to control the project budget more effectively with a CM/GC contractor. The CM/GC approach will allow the construction contractor's input simultaneous with design and will facilitate development of construction plans that minimize costs and impacts related to delayed construction schedules, bidding and materials procurement. Also, the contractors can provide real-time market pricing that will assist in design decisions. Lastly, in many instances the scope of work is uncertain and will

benefit from the close collaboration between the designer and the contractor during the design phase and result in a better and more complete scope of work, resulting in a better and more cost-effective final product.

A CM/GC contract will involve the construction contractor during the design phase. Involving the contractors early in the design process encourages increased collaboration that results in a more efficient design, fewer change orders attributable to design issues, and faster progress with fewer unexpected delays. This will allow HACC to better control costs because of timely real market pricing, constructability guidance and input from the contractors that will build the projects. Moreover, the ability to have the CM/GC do early work prior to completion of design shortens the overall duration of construction, resulting in less disruption to building occupants and neighboring property owners. A shortened construction duration also will allow HACC to more quickly bring housing units back into service, which will lessen the impact on HACC's rental revenue stream and generally benefit the public by limiting the amount of time that housing units are unavailable. Faster progress and an earlier completion date will also help HACC mitigate, to some extent, the risk of inflationary increase in materials and construction labor costs.

In addition, during constructability reviews, the selected contractors will review long-term operating costs and advise HACC regarding the operational advantages and disadvantages associated with design alternatives. An evaluation of these alternatives will result in projects with lower long-term operating and maintenance costs.

c. *Public benefits that may result from granting the exemption.*

Due to existing building occupancy, plans for work contemplated at Hillside Manor will require considerable flexibility daily to accomplish the desired results. A realistic, cost-effective construction approach that addresses these critical needs is necessary. Project financing will dictate constricted schedules, and repair/renovation work. HACC and the contractors must develop a plan before the start of construction that will allow the contractors to meet schedule imperatives while completing the required renovations and minimizing disruptions to residents.

In addition, collaboration with a qualified CM/GC contractor early in the project schedule allows the development of practical approaches that achieve high levels of participation by MWESB businesses, as well as Section 3 business, and allows collaboration with pre-apprenticeship programs to grow workforce opportunities.

Use of alternative contracting methods will allow HACC to identify contractors who can work with the public and maximize public benefits for these projects. CM/GC contracts allow the contractors to participate in the design process thereby resulting in the development of a safe and effective construction sequence that minimizes disruptions to building occupants and neighboring properties. Their valuable advice during design will result in better repairs and renovation to the properties. A shortened construction term will result in benefits to residents, nearby businesses and neighboring property owners. The public interests of maximizing participation of minority, women-owned and emerging small businesses and Section 3 businesses will be enhanced by use of either the design-build or CM/GC alternative process.

d. *Whether value engineering techniques may decrease the cost of the public improvement.*

Construction contractor input during the early design phase will facilitate the value engineering process. Options can be considered while the design is being finalized and with minimal issuance of change orders during construction. Since the contractor is directly involved in value engineering evaluations, unrealistic or impractical options can be dismissed quickly when appropriate. When it occurs, value engineering on competitively bid projects typically results in increased design costs because the completed design must be revised to accommodate the changes that result from value engineering. These additional costs may be avoided or limited under the CM/GC project delivery method.

Construction contractor input during design will provide the optimal value engineering process. The CM/GC project delivery method allows the construction contractor to work directly with the design team during the design process to incorporate value-engineering ideas in the most timely and efficient manner, resulting in lower project costs to HACC.

- e. *The cost and availability of specialized expertise that is necessary for the public improvement.*

It will be a requirement that the CM/GC have expertise in working on projects with similar size, scale and complexity of the proposed repairs and renovation; coordinating tenant relocation; and maintaining robust flexibility in daily planning.

A CM/GC project delivery method will allow HACC to identify contractors with the special expertise required. The traditional competitive-bid process does not ensure that the needed special expertise will be procured, because prospective bidders need meet only limited responsibility criteria. CM/GC contracts are the best methods to incorporate the flexibility needed to quickly respond to changing plans and conditions that are the hallmark of occupied rehabilitation work. The ability to consider each proposer's degree of expertise in these areas is an integral component of the proposal evaluation process.

- f. *Any likely increases in public safety.*

The contract will require the utmost attention to public safety as the risks associated with construction activities increase in residential communities and when the work site remains occupied. Surrounding neighbors include residential buildings, critical social services, and busy transit ways.

Hillside Manor is currently occupied and construction will require some level of resident coordination and relocation. Most of the residents include elderly and disabled persons who require additional assistance and consideration as they travel to and from their homes. Construction-generated staging, delivery, and parking activity will need to be considered in a comprehensive construction traffic safety and mitigation plan. Constant attention to needs of residents, neighbors and construction crews is crucial to maintaining a safe working and living environment for the residents, workers and the general public.

The contractor's actual safety performance on similar past projects is critical and will be evaluated as part of the proposal review process. A competitive CM/GC procurement affords HACC the best opportunity to select contractors with proven, successful safety records.

- g. *Whether granting the exemption will affect the sources of funding for the public improvement.*

Construction of the project will be funded through a variety of sources including Clackamas County HOME, Housing Trust Fund, and primarily, the sale of Low Income Housing Tax Credits (“LIHTC”). LIHTC financing is highly competitive and to ensure award of Tax Credits, a highly experienced and reputable general contractor is advantageous. In addition, this type of financing requires reporting of construction costs using a certain method. A contractor that is selected under the competitive bid process may not have the experience necessary to support the LIHTC financing.

Selection of a well-established, experienced CM/GC contractor would assist in attracting Tax Credit equity partners and the participation of lenders. The quality of the selected contractors and their proven ability to meet schedule requirements will help attract better pricing for private financing. The level of reporting and segregation of costs needed to support Tax Credit financed projects is substantial. Experience at these tasks will support the overall success of the projects.

- h. *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.*

Market conditions for residential construction in the Portland metro area are extremely busy, with rising construction costs and a tight labor market. General contractors can be much more selective in the work they pursue. It will be important to package this work in the most attractive manner to draw quality contractors and to eliminate as many barriers as possible.

Competitive CM/GC procurements will better enable HACC to manage construction bid risks within a robust construction market. HACC is more likely to attract experienced and capable general contractors using alternative contracting methods. In addition, these alternative contracting methods provide the advantages of real-time market pricing during design to inform material and equipment selection. In addition, an alternative contracting method will allow HACC to collaborate with the contractors concerning items such as subcontractor and supplier buy-out strategies and value engineering. Use of a traditional competitive-bid approach in a tight or rising cost construction market increases the risk bids will exceed budget, with limited options to address overages through scope reductions. When bids exceed budget, it causes delay and budget problems as staff work to find solutions to make the project viable. Any delays translate into additional costs due to increasing construction material costs and other associated costs. Use of the CM/GC delivery methods will enable HACC to better respond to market conditions in a manner that results in lower-cost projects.

- i. *Whether granting the exemption will better enable the contracting agency to address the size and technical complexity of the public improvement*

The work contemplated by the Hillside Manor Renovation project will be complex in its investigatory phase to arrive at final scope and coordination requirements due to the occupied nature of the property, equity contracting goals, and the necessity for a highly effective construction safety and mitigation plan. For example, performing work in occupied buildings involves complex phasing to ensure that critical life safety and other

building systems remain operational during construction. The contractors will be required to perform work daily in accordance with a schedule that meets contract deadlines driven by financing, and the needs of residents and neighbors. Selection of contractors with demonstrated experience and success on similar projects will result in substantially lower risk to HACC, building occupants, and the public generally.

Beyond the minimum requirements for bidder responsibility, a traditional competitive-bid procurement does not permit an in-depth evaluation a contractor's technical qualifications or proven ability to address complex technical issues, such as meeting critical deadlines, addressing needs of residents and neighbors, and maximizing participation by target MWESB and Section 3 businesses. Use of a RFP process will include several evaluation criteria in addition to price—allows HACC to evaluate a contractor's experience in similar work, including on-time performance, community, resident and governmental coordination, equity contracting requirements and the ability to successfully respond to minor work plan adjustments.

- j. *Whether the public improvement involves new construction or renovates or remodels an existing structure.*

The Project is a renovation of existing affordable housing units. There are a considerable number of uncertainties and technical complexities associated with this type of work due to the nature of renovating older buildings, For example, renovation projects frequently involve work in areas that were concealed or inaccessible during the design phase. When the work is performed, design and construction limitations in these previously inaccessible areas may be revealed, requiring additional design work and re-sequencing of work while revised designs are being prepared.

Because of these uncertainties, the opportunity to select the most qualified contractors, considering many factors, will help anticipate and avoid project problems and, as a result, realize substantial cost savings over the traditional competitive bid procurements where bid price is the only factor. In addition, the ability to perform so-called “early work” under CM/GC contracts may uncover latent conditions at the project site, enabling project designers to efficiently address design changes during the design phase, rather than during the construction phase.

The RFP process will allow HACC to give appropriate weight to proposers that are skilled and experienced in performing similar renovation work. Because of the nature of the renovation work, including but not limited to the potential for encountering latent conditions, it will be critical for HACC to select contractors with significant experience in renovation and remodel projects.

- a. *Whether the public improvement will be occupied or unoccupied during construction.*

It is expected that the Hillside Manor Renovation project will be partially occupied during construction. Accordingly, the project must continue to operate safely and be open to residents during construction. Use of the CM/GC delivery method will enable the project contractors to work with project designers, property managers and HACC during the project's design phase to identify and resolve potential conflicts and coordination issues related to, occupation of the projects during construction. These efforts include, without limitation developing construction staging plans, access corridors, and phasing plans to

mitigate potential impacts on project occupants. Under a traditional competitive-bid procurement, these types of pre-construction impact mitigation efforts on the part of the contractor are not possible. HACC expects that such mitigation efforts will increase efficiency and foster better relationships with building occupants, resulting in greater occupant satisfaction and cost savings.

- b. *Whether the public improvement will require a single phase of construction work or multiple phases of construction work to address specific project conditions.*

It is expected that the construction efforts at Hillside Manor will be phased to minimize the impacts of tenant relocation. HACC will look to the CM/GC to determine the most appropriate phasing based on the scope of work. The CM/GC might determine that it's more appropriate to work floor by floor or the CM/GC might require that construction efforts occur vertically requiring the relocation of an entire wing.

In addition, the ability of the parties to perform "early work" before the design is completed, will allow the construction effort to be completed quicker. Moreover, where appropriate, early work may be performed to investigate concealed conditions and potentially uncover latent conditions that could impact the project's design, thus avoiding costly re-design work and change orders.

- c. *Whether the contracting agency has retained under contract, and will use contracting 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 will use to award the public improvement contract and to help negotiate, administer and enforce the terms of the public improvement contract.*

HACC and County Procurement staff have experience completing similar projects using the CM/GC project delivery methods. HACC will work with County Counsel, in addition to outside legal counsel with specific expertise in CM/GC, and will retain consultants and designers with the necessary qualifications and expertise to negotiate, administer and enforce the terms of the public improvement contracts.

- d. *Funding sources*

Construction of the projects will be funded through a variety of sources including HOME, Housing Trust Fund, and primarily, the sale of Low Income Housing Tax Credits. Tax Credit financing is highly competitive and to ensure award of Tax Credits, a highly experienced and reputable general contractor is advantageous. In addition, this type of finance requires reporting of construction costs using a certain method. A competitive-bid contractor may not have the experience necessary to support the Tax Credit financing and financial reporting of construction costs.

Selection of a well-established, experienced CM/GC contractor would assist in attracting Tax Credit equity partners and the participation of lenders. The quality of the selected contractors and their proven ability to meet schedule requirements will help attract better pricing for private financing. The level of reporting and segregation of costs needed to support Tax Credit financed projects is substantial. Experience at these tasks will support the overall success of the projects.

E. Contract Terms and Conditions

The technical complexities and uncertainties of the projects make it critical for the contract to contain specific terms and conditions that will increase efficiency and result in reduced costs. The Project contract will be reviewed by legal counsel. The contract will contain, among other things, provisions for insurance, indemnification, payment and performance bonds, and requirements of Oregon Revised Statutes chapter 279C.

F. Reservation of Rights

ORS 279C.335(6) provides that the representations in and the accuracy of these findings are the basis for the contract specific exemption if adopted by a Board of Directors resolution. These findings also describe, to some extent, anticipated features of the resulting public improvement contract, but the final parameters of the contract are those characteristics that will be announced in the solicitation document, and HACC specifically reserves all of its rights in this regard.

F. Recommendation

A RFP process for a CM/GC contractor is the preferred option for the Hillside Manor Renovation Project. The RFP process will ensure that the selected contractor has the experience, expertise, and past performance to position the Hillside Manor Renovation contract for success. The RFP process will include practices to ensure that meaningful competition occurs and that favoritism is not an element of the selection. After the selection process, having the ability to use a CM/GC project delivery method will allow contractors collaborate in the design effort, yielding the most cost-effective and practical choices in design options while still allowing HACC to retain control of the design and costs. Perhaps most importantly, the CM/GC method will provide the flexibility to maintain minimal disruption to the community and residents, while meeting critical contract time frames established by the Tax Credit financing. All these factors will assist HACC in achieving fair and equitable selections of a contractor that will deliver both good design and successful repairs and renovation to the properties with minimal public impacts at the least total construction costs and within the most beneficial schedule. HACC staff therefore recommends adoption of a resolution exempting the public improvement contract from the traditional competitive procurement process and authorizing the use of an alternative competitive procurement method using the RFP process.