



Lynn Peterson  
Chair

Commissioners  
Bob Austin  
Jim Bernard  
Charlotte Lehan  
Ann Lininger

BOARD OF COUNTY COMMISSIONERS

PUBLIC SERVICES BUILDING  
2051 KAEN ROAD | OREGON CITY, OR 97045

# AGENDA

## WEDNESDAY, DECEMBER 23 2009 - 10:00 AM BOARD OF COUNTY COMMISSIONERS

Beginning Board Order No. 2009-131

### **I. PRESENTATION** *(Following are items of interest to the citizens of the County)*

1. Presentation of the Government Channel Programming Awards for 2009 (Steve Lobel)

**II. CITIZEN COMMUNICATION** *(The Chair of the Board will call for statements from citizens regarding issues relating to County government. It is the intention that this portion of the agenda shall be limited to items of County business which are properly the object of Board consideration and may not be of a personal nature. Persons wishing to speak shall be allowed to do so after registering on the blue card provided on the table outside of the hearing room prior to the beginning of the hearing. Testimony is limited to three (3) minute. Comments shall be respectful and courteous to all.)*

**III. PUBLIC HEARINGS** *(The following items will be individually presented by County staff or other appropriate individuals. Persons appearing shall clearly identify themselves and the organization they represent. In addition, a synopsis of each item, together with a brief statement of the action being requested shall be made by those appearing on behalf of an agenda item.)*

1. Request for an Exemption and Authorization to use the Request for Proposals Method to Obtain Construction Manager/General Contractor (CM/GC) Services for the Clackamas County Jail Renovation Project (Marc Gonzales)
2. Request for an Exemption and Authorization to use the Request for Proposals Method to Obtain General Contractor Services for the Clackamas County Sunnybrook Facility Renovation Project (Marc Gonzales)

**IV. DISCUSSION ITEMS** *(The following items will be individually presented by County staff or other appropriate individuals. Citizens who want to comment on a discussion item may do so when called on by the Chair.)*

**~NO DISCUSSION ITEMS SCHEDULED**

**V. CONSENT AGENDA** *(The following items are considered to be routine, and therefore will not be allotted individual discussion time on the agenda. Many of these items have been discussed by the Board in Study Session. The items on the Consent Agenda will be approved in one motion unless a Board member requests, before the vote on the motion, to have an item considered at its regular place on the agenda.)*

#### **A. Department of Human Services**

1. Approval of an Agreement between Clackamas County and Clackamas Community Land Trust to use Neighborhood Stabilization Program Funds to Purchase and Rehabilitate a Foreclosed Home – Community Development

**B. Elected Officials**

1. Approval of Previous Business Meeting Minutes – BCC

**VI. NORTH CLACKAMAS PARKS AND RECREATION DEPARTMENT**

1. Approval of Amendment #3 to the Contract with Harper Houf Peterson Righellis, Inc. for Consulting Engineering Services for the Development of a Concept Site Plan for the SE 162nd Avenue Community Park and Related Construction Activities – North Clackamas Parks and Recreation Department
2. Granting of Easements to Clackamas County Service District No. 1 for Sanitary Sewer Purposes in Mill Park

**VII. COMMISSIONERS COMMUNICATION**

**NOTE: Regularly scheduled Business Meetings are televised and broadcast on the Clackamas County Government Channel. These programs are also accessible through the County's Internet site. DVD copies of regularly scheduled BCC Thursday Business Meetings are available for checkout at the Clackamas County Library in Oak Grove by the following Saturday. You may also order copies from any library in Clackamas County or the Clackamas County Government Channel.**

**<http://www.clackamas.us/bcc/business/>**



Debbie McCoy  
Manager

CABLE COMMUNICATIONS  
PUBLIC SERVICES BUILDING

2051 KAEN ROAD OREGON CITY, OR 97045

December 23, 2009

Board of Commissioners  
Clackamas County

Members of the Board:

PRESENTATION OF THE GOVERNMENT CHANNEL PROGRAMMING AWARDS FOR 2009

The Cable Communications Division is pleased to present to the Board of County Commissioners the recent programming awards received for our Government Channel productions. At the NATOA (National Association of Telecommunications Officers and Advisors) 24th Annual Government Programming Awards competition on October 2, 2009 in New Orleans, Louisiana, we received two First Place Awards and two Honorable Mentions. Additionally, the channel received two Awards of Excellence, one Award of Distinction and three Honorable Mentions from The Videographer Award competition held in May of this year, and three videos that were part of countywide marketing campaigns that won Annual Achievement Awards from The National Association of Counties on June 29, 2009.

We will show you a video clip using the creativity of one of our videographers to highlight our achievements. These will include our honors from the NATOA awards competition which received nearly 1,800 entries. We received a First Place for "Celebrating the Legacy Sharing the Vision" by videographer Marc Ivanish and "Inside Clackamas County: Something for Everyone at North Clackamas Parks" by videographer Marc Ivanish and host Kimberly Jacobsen. Honorable Mentions were received for "Clackamas Community College Sculpture Build-Off" by videographer Marc Ivanish and "NORSAR: The Advantage in Search and Rescue" by videographer Kevin Brown.

Additionally, two Awards of Excellence from The Videographer Award competition were received for "Inside Clackamas County: Something for Everyone at North Clackamas Parks" by videographer Marc Ivanish and host Kimberly Jacobsen and for "Clackamas Matters" by videographer Richard Butler. One Award of Distinction was received for "Clackamas Community College: Sculpture Build-Off" by videographer Marc Ivanish. Three Honorable Mentions were received for "NORSAR: The K9 Advantage to Search & Rescue" by videographer Kevin Brown, "Everything You need to Know: Urban Wildlife Design" by videographer Kevin Brown and "The 6<sup>th</sup> Annual Down River Clean Up" by videographer Meagan Brady-Wright.

Annual Achievement Awards from The National Association of Counties were received for "Reviewing a Path to our Future" by videographer Dave Spangler; the campaign creating "Agricultural Extension and 4-H Service District" by videographer Stephen Tarantola and the campaign creating the "Library Service District" by videographer Chris Miller.

These programming competitions are highly competitive with entries from throughout the United States and some international entries. Clackamas County Cable Communications is pleased to have won 15 awards this year for our programming.

Respectfully submitted,



Debbie McCoy, Manager  
Cable Communications



Marc Gonzales  
Director

DEPARTMENT OF FINANCE

PUBLIC SERVICES BUILDING  
2051 KAEN ROAD | OREGON CITY, OR 97045

December 23, 2009

Board of County Commissioners  
Clackamas County

Members of the Board:

**Request For An Exemption And Authorization To Use The Request For Proposals Method To Obtain Construction Manager/General Contractor (CM/GC) Services For The Clackamas County Jail Renovation Project**

In order to use the Request for Proposals method to solicit for Public Improvement projects the Board, acting as the Local Contract Review Board, must approve Findings of Fact that justify the granting of an exemption from competitive bidding requirements.

The Local Contract Review Board Rule C049-0620 and ORS 279C.335 require the following process for exemptions of this nature.

Before final adoption of the findings exempting a contract for a public improvement from the requirement of competitive bidding, a public agency shall hold a public hearing. Notification of the public hearing shall be published in at least one trade newspaper of general statewide circulation a minimum of 14 days prior to the hearing.

The notice shall state that the public hearing is for the purpose of taking comments on the agency's draft findings for an exemption from the competitive bidding requirement. At the time of the notice, copies of the draft findings shall be made available to the public. At the option of the public agency the notice may describe the process by which the findings are finally adopted and may indicate the opportunity for public comment.

At the public hearing the agency shall offer an opportunity for any interested party to appear and present comment.

To meet these requirements these proposed findings are being presented to the Board for the exemption from the competitive bidding requirement.

The Purchasing Manager caused an advertisement to be placed in the Daily Journal of Commerce on **December 4, 2009** notifying interested parties of the proposed findings. The advertisement states that the proposed findings are available at the Office of the Purchasing Manager and that a Public Hearing will be held on **December 23, 2009**. This meeting will be the last opportunity for receiving comments. If no comments are received that result in a revision of the proposed findings the Board of Commissioners may, at its discretion, adopt these proposed findings at the public hearing.

**PROPOSED FINDINGS:**

**A. Nature of the Project:**

In January 2009 the County began a project to develop a Facilities Master Plan for Public Safety Operations. The prime objective of the Master Plan was to examine the current space holdings of the Sheriff's Office, create options for consolidation and efficiency, prepare a priority list of improvements for the existing Jail on the Red Soils Campus and develop a list of all Sheriff's Office need for the next ten years.

The Facilities Master Plan for Public Safety Operations identified a number of improvements to the existing Jail facility that would extend the usability of the facility for next eight to ten years. The existing facility has maximized both its growth and renovation potential, however, there are needs which must be met until a new facility can be built. Those needs stem from possible litigation, staff and inmate security measures and operational efficiencies. By reoccupying abandoned cell areas, reconfiguring current uses, and making use of existing storage spaces most of the issues can be addressed. Some non-secure uses will be accommodated outside the Jail facility in the South Station building once the existing South Station operations are relocated to the Sunnybrook Facility.

The Master Plan grouped the changes into 4 basic sequences based upon an analysis of the level of need of the changes and the logical progression of the work based on the fact that the facility must remain fully operational during the construction of the upgrades. In broad terms Sequence One addresses New Master Controls system, expanded Video Arraignment, Warrants Unit renovation, adding capacity to the kitchen, and upgrades to the water and sewer lines. Sequence Two will remodel abandoned cell block areas for housing and education, cover the outdoor recreation area to allow for year round use, establish a space for Early Resolution Court and provide a secure area for Attorney visitations. Sequence Three will add areas for Medical and Mental Health functions, expand the vehicle sally port, provide a cover to enhance security at the loading dock, and add a covered exterior area for visitors. Sequence Four will convert the South Station building to house the Visitor video visitation operation, day report operation, and various administrative spaces that will be displaced by the renovations in the Jail Facility.

Due to the unique nature of the facility, its high security requirements and the need to seamlessly coordinate the multiple and complex facets of the work the County is proposing to utilize the CM/GC method to obtain construction services to deliver the project.

**B. Estimated Cost of the Project:**

The current construction budget is estimated to be between 6 to 7 million dollars.

**C. Narrative Description of Anticipated Cost Savings from Exemption to use the Request for Proposals Method to Obtain CM/GC Construction Services:**

Under the traditional design-bid-build method, the design firm must fully complete construction plans and specifications before a single construction contract can be advertised, bid and awarded. Many additional months are required before construction can begin. Alternatively, the County can fast track the construction under several separate construction contracts; however, the County would be separately responsible for each of the contracts.

Public agencies have become increasingly vulnerable to costly claims, delays and litigation when disputes erupt between separate contractors on the same site.

A CM/GC contract is an alternative form of procurement that results in a contract with a construction manager/general contractor who undertakes project team involvement with design development; provides constructability reviews; provides value engineering; scheduling; estimating; and sub-contracting services; establishes a "guaranteed Maximum Price" (GMP) to complete the work as may be allowed under the contract; coordinates and manages the building process; provides general contractor expertise; and acts as a member of the project team along with County staff, project architects and engineers, and other consultants.

The GMP is the total maximum price that will be paid by the County for construction of the project. The GMP includes all reimbursable costs and fees for completion of the work as defined by the contract, except for material changes in the scope of work. Therefore, the use of a GMP limits the number and type of change orders that a contractor may seek during the construction of the project.

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 allow for coordination with the Sunnybrook project. The accelerated project delivery will also minimize the impact of inflation on the overall cost of the project.
2. The selection of construction methods and sequencing will benefit significantly by involving a single entity for both management and construction of the site improvements. The CM/GC approach provides the County 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.
4. 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. The County gains the opportunity to fix the total project cost early in the process cooperatively with the CM/GC team.
6. The County'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. Having a single source of responsibility for construction of a facility in accordance with a performance-based specification helps ensure the County that the facility will perform as specified.

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 the County. Resolution of construction conflicts or deficiencies is the responsibility of the CM/GC entity, not the County.

**D. Proposed Alternative Contracting and Purchasing Practices:**

1. The County desires to select the CM/GC firm using the following competitive process:
  - a. Publicly advertise a Request for Proposal.
  - b. The contractor will be selected through an evaluation process that will consider Qualifications, construction team experience, both the technical proposal and the fee proposal.

**Evaluation and Selection Criteria:**

1. Firm Background	Points: 0 - 5
2. Firm Experience and Success	Points: 0 - 10
3. Experience with CM/GC and GMP Work	Points: 0 - 10
4. Job Understanding	Points: 0 - 10
5. Administration of Work, Project Scheduling and Coordination	Points: 0 - 15
6. Value Engineering	Points: 0 - 5
7. Firm Workload	Points: 0 - 5
8. Experience of Key Personnel	Points: 0 - 15
9. Management Fee Percentage	Points: 0 - 25

- c. 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. The County may ask proposers to make oral presentations to discuss and clarify the submitted proposal.
- d. The Selection Committee will provide a recommendation to the Board of Commissioners for their consideration.

## **E. Statutory Tests**

### **1. Background:**

ORS279C.335 requires that the Local Contract Review Board make certain findings as a part of authorizing the use of an Alternative Contracting Method. Clackamas County desires to use a Request for Proposals solicitation method to select a CM/GC contractor for this project. The Clackamas County Request for Proposals approach has been designed to fully comply with the tests of Oregon Public Contracts Statute ORS 279C.335 for alternative contracting methods:

- a. It is unlikely that the exemption will encourage favoritism in the awarding of public improvement contracts or substantially diminish competition for public improvement contracts; and,
- b. The awarding of public improvement contract under the exemption will result in a substantial cost savings to the contracting agency or the public.

### **2. Test:**

#### **a. Maximizing Competition:**

The County will employ a competitive Request for Proposals process for selecting the CM/GC, where the cost of services (along with other factors) is one element of the selection criteria.

Additionally, The CM/GC must publicly advertise at least five (5) days in advance in publications of record and the CM/GC must make a good faith effort to obtain at least three (3) bids for most sub contracts. The CM/GC must award the work of each such subcontract to the responsible bidder submitting the lowest responsive bid.

#### **b. Minimizing Favoritism:**

Objective selection criteria and a formal selection process will be used to select the CM/GC.

Additionally, the CM/GC must make a good faith effort to obtain at least three competitive bids for each particular work sub-component to be completed, including work components which the CM/GC may be interested in self-performing. The County may allow the CM/GC to perform some of the trade work if the CM/GC competes competitively with trade subcontractors for that work. In such cases, bids will need to be submitted to the County.

When there are single fabricators of materials, special packaging requirements for subcontractor work, or work to be performed by the CMGC, advance approval by the County's representative is required.

c. **Substantial Cost Savings:**

1. **Fast Track Project:** The project will be able to be completed more rapidly thereby minimizing inflationary impact to the County. Fast track process will allow for certain elements of construction to proceed in step with the design process.
2. **Value Engineering:** The CM/GC will work along with the County and Architect recommending cost savings alternatives as the design evolves.
3. **Constructability:** The CM/GC will provide recommendations to the County and Architect to be incorporated into the design for simplifying and reducing the cost of construction.
4. **Document Reviews:** The CM/GC will regularly review construction documents as they evolve, recommending clarifications and corrections which will reduce vulnerability to contractor change orders, disputes and claims during construction.
5. **Labor Impact Issues:** CM/GC involvement during the design and construction will include analysis of the local labor market and recommendations to the County team for the selection of materials and systems least vulnerable to cost premium as the result of labor shortages.
6. **Cost Estimating:** The CM/GC will provide detailed cost estimates at each design milestone, which along with the County's estimates will make it possible for the County to make decisions, fully informed of cost implications, in the selection of the least expensive alternatives.
7. **Reduced Change Order Exposure:** The CM/GC has direct control of the construction at a fixed GMP thereby reducing exposure to change order costs.
8. **Phased Construction:** Phased construction opportunities, which result from the CM/GC method of construction, can result in opportunities for significant cost savings:
  - a. Earlier start of construction reduces the impact of inflation on project funds.
  - b. Early purchase of long-lead items allows for better competitive pricing and lower prices.
  - c. Phased construction results in faster overall construction schedules, thus reducing CM/GC and subcontractor overhead and creating other opportunities for efficiencies.

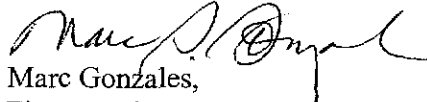
9. **100% Performance Bond:** Requirements for a 100% performance and 100% payment bonds protect the County in the event of contractor default. The CM/GC will be responsible for the performance of the subcontractors during construction.

10. **Guaranteed Maximum Price:** The CM/GC will guarantee the final cost of the project, including change orders within the CM/GC's control protecting the County from cost overruns.

11. **Improved Teamwork:** The CM/GC process provides for improved teamwork between the County, Designer, and Contractor by minimizing adversarial relationships, resulting in savings from disputes and claims.

**RECOMMENDATION:** Staff respectfully recommends that the Board, acting as the Local Contract Review Board, considers the comments received from the public on the proposed findings and direct staff to revise the findings, if necessary. If no revisions are to be made, staff recommends that the Board adopt the findings and grant the requested exemption.

Respectfully submitted,



Marc Gonzales,  
Finance Director

As set forth above, the Board of County Commissioners, acting as the Local Contract Review Board, by their signature below approves the proposed alternative contracting process and the Findings and Exemption from competitive bidding for the Clackamas County Jail Renovation Project.

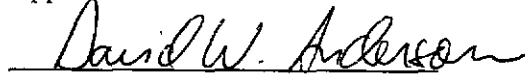
CLACKAMAS COUNTY BOARD OF  
COUNTY COMMISSIONERS by

\_\_\_\_\_  
Lynn Peterson, Chair

\_\_\_\_\_  
Recording Secretary

\_\_\_\_\_  
Date

Approved as to Form



\_\_\_\_\_  
County Counsel



Marc Gonzales  
Director

DEPARTMENT OF FINANCE

PUBLIC SERVICES BUILDING  
2051 KAEN ROAD | OREGON CITY, OR 97045

December 23, 2009

Board of County Commissioners  
Clackamas County

Members of the Board:

**Request For An Exemption And Authorization To Use The Request For Proposals Method To  
Obtain General Contractor Services For The Clackamas County  
Sunnybrook Facility Renovation Project**

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At the public hearing the agency shall offer an opportunity for any interested party to appear and present comment.

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## **PROPOSED FINDINGS:**

### **A. Nature of the Project:**

In January 2009 the County began a project to develop a Facilities Master Plan for Public Safety Operations. The prime objective of the Master Plan was to examine the current space holdings of the Sheriff's Office, create options for consolidation and efficiency, prepare a priority list of improvements for existing facilities and explore options for providing additional space to address the Sheriff's Office needs for the next ten years.

The Sheriff's Office is currently split into eight facilities with a fragmented workforce that does not easily have the physical ability to interact with each other as necessary to function as a whole. The Facilities Master Plan for Public Safety Operations identified the Sunnybrook Facility as an optimal site for consolidating multiple Sheriff's functions. The facility will house Administration, Records, Detectives, Patrol, Information Technology, and other miscellaneous groups including the Justice Court and Community Court functions. This consolidation will allow the Sheriffs Office the opportunity to create a better managed and more efficient operation. Relocating the functions currently housed in the Public Safety Training Center and the North Station will provide opportunities to maximize their potential as training facilities for both law enforcement personnel and the public.

The Master Plan has identified a number of improvements that would be necessary to adapt the Sunnybrook facility to meet the operational needs of the Sheriffs Office. Due to the fact that the facility will house first responder operations, such as the Patrol function, the structure will be upgraded to meet the seismic requirements of an Essential Facility (I=1.5) pursuant to 2007 OSSC. Additionally, the project includes upgrading of HVAC systems and controls, addition of emergency generator and transfer equipment, new lighting and controls, addition of two entrance vestibules at the main entrance, additional insulation, incorporation of solar technology and converting a first floor area for use by the Community and Justice Court functions. The site work will include security fencing and gates, a new entry plaza and the addition of a new paved surface parking area along with other minor site improvements.

In keeping with the County's stated goal of maximizing environmental and financial sustainability, the project has been registered with LEED with the goal of meeting the LEED NC 2.2 Gold certification requirements.

To meet this level of certification the project must be designed in a manner that provides the guidelines for meeting these stringent requirements. However it is imperative that the General Contractor on the project has the demonstrated experience and key personnel necessary to meet LEED NC 2.2 Gold certification. These activities include determining the types of construction materials to be used, the location of materials, suppliers, the methods of construction, the methods of waste disposal, use of regional materials, indoor air quality management, and the construction management plan. All of these require extensive and accurate documentation to achieve LEED NC 2.2 Gold certification.

Due to the nature of the project and the desire to meet LEED NC 2.2 Gold Certification the County is proposing to utilize the two step process for obtaining General Contractor Services. The first step will be to publically advertise a Request for Qualifications that will allow the County to rate potential General Contractors and develop a list of the most qualified proposers. This group of selected proposers will then be invited to submit a cost proposal. The contract will be awarded as soon as practicable to the qualified proposer whose proposal is determined to be the most advantageous to the County.

**B. Estimated Cost of the Project:**

The current construction budget is estimated to be between 6.5 to 7 million dollars.

**C. Narrative Description of Anticipated Cost Savings from Exemption to Use the Request for Proposals Method to Obtain General Contractor Services:**

Under the traditional low bid method the Contracting Agency is constrained in evaluating the potential bidders experience with projects of this nature. Therefore, the potential that the low bidder could underestimate the level of work necessary to meet the project requirements must be addressed to minimize the potential for change orders that could impact the cost of the project. It is anticipated that the process of evaluating potential contractors experience with similar projects and soliciting cost proposals from those selected qualified contractors will minimize the County's exposure to changes in cost. Additionally, the RFP process provides that the contract will be awarded as soon as practicable to the qualified proposer whose proposal is determined to be the most advantageous to the County which will maximize the current highly competitive construction marketplace.

**D. Proposed Alternative Contracting and Purchasing Practices:**

1. The County desires to select the General Contractor firm using the following competitive process:

- a. Publicly advertise a Request for Qualifications.
- b. The potential contractors will be selected through an evaluation process that will consider:

**Background:**

1. Provide a brief description of the firm's history and its capabilities. Include annual contract volume figures for the past five years.
2. Provide a general description of the firm's safety and drug/alcohol programs as well as the most recent Workers Compensation Insurance experience modifier.
3. Describe the firm's knowledge and experience with the labor market and conditions in the Portland Metro area.
4. Describe the firm's approach to promoting participation in the project on the part of minority, women and emerging small business enterprises.
5. Describe the firm's approach to successfully executing and certifying LEED NC 2.2 renovation projects of similar scale and complexity.

**Key Personnel Experience**

1. Provide a discussion of the Key Personnel
  - a. Supervisor to employee ratio
  - b. Crew size
  - c. In-house capacity
  - d. Expected sub-contractors