

FINDINGS OF FACT:

1. **The exemption is unlikely to encourage favoritism in the awarding of public improvement contracts or substantially diminish competition for public improvement contracts.**

The Construction Manager/General Contractor (CMGC) with a Guaranteed Maximum Price (GMP) contractor will be selected through a competitive and open RFP selection process authorized by the SHA.

- a. **Solicitation Process:** The nature of the work required for this class exemption is very specialized due to the layering of tax credit financing with a combination of State and Federal funds. The RFP process will allow competition for the selection of the CM/GC for construction of the project.

2. **Awarding a public improvement contract under this exemption will likely result in substantial cost savings and other substantial benefits to the SHA and the public.**

- a. Substantial cost savings will be realized by the SHA since a CM/GC is the expert in constructing and managing projects. The exemption process will allow the CM/GC to use its specialized resources to complete the work. This specialized experience will improve the design of the project and minimize construction risks and cost overruns.
- b. The type, cost, and amount of the contract and, to the extent applicable, the following aspects were considered:

(i) How many persons are available to bid: Any qualified firm can respond to the RFP for the project.

(ii) The construction budget and the projected operating costs for the completed public improvement: Substantial cost savings will be realized by the SHA because the CM/GC will be an expert at design and construction of multi-family housing structures. The project will be delivered in a shorter amount of time and at less cost since the CM/GC will be involved from the design phase and will be able to recommend improvements in the plans and processes prior to bidding and the start of the actual construction.

(iii) Public benefits that may result from granting the exemption:

Time Savings: Use of CM/GC as an alternative contracting method allows construction work to commence relatively rapidly on some portions of the work while design continues on the remaining portions. The CM/GC method shortens the overall duration of the construction and provides for completion of the Project by the due date. It is critical to adhere to both the schedule and budget

of the Project.

Cost Savings: The Project will benefit from the active involvement of a CM/GC contractor during the design process:

- a. CM/GC contractor input regarding the constructability and cost-effectiveness of various alternatives will guide the design toward the most economic choices.
- b. Consideration of the specific equipment available to the CM/GC contractor allows the designer to implement solutions that utilize the capacity of that equipment.
- c. The CM/GC contractor provides current and reliable information regarding the cost and availability of materials, especially those that are experiencing price volatility and/or scarcity.
- d. The CM/GC contractor can order materials while design is being completed, avoiding inflationary price increases and providing the lead-time that may be required for scarce materials.

GMP Establishes a Maximum Price Prior to Completion of Documents: The CM/GC contractor obtains a complete understanding of SHA's needs, the design intent, the scope of the Project, and the operational needs of the Project by participating in the development of the construction documents. By participating in the design phase, the CM/GC contractor can provide suggestions for improvement and cost reduction. With the benefit of this knowledge, the CM/GC contractor also guarantees a maximum price to be paid by SHA for constructing the Project.

(iv) Whether value engineering techniques may decrease the cost of the public improvement:

CM/GC Process: The CM/GC process offers an opportunity for value engineering ("VE") which is more effective than can be attained through VE during the traditional design-bid-build process. VE is most effective prior to construction and during the design phase by a team consisting of the owner, consultant, and the CM/GC contractor. When VE is conducted during the design phase led by the CM/GC contractor, the team can render the most comprehensive evaluation of all factors that affect the cost, quality, and schedule of the project prior to construction. Design phase VE minimizes delays and additional administrative costs that would otherwise be a factor with VE during the construction phase on a design-bid-build project.

Design-Bid-Build Process: If SHA uses the traditional design-bid-build process, the contractor would not participate in the VE process until after the design phase was complete. Contractor participation in the VE process during the construction phase tends to be less effective than when it is implemented during design, and it is typically accompanied by delays and additional administrative costs from the review and evaluate of the contractor's VE proposals. When compared to VE on a CM/GC project, there tends to be less incentive and time for the contractor to investigate and suggest VE options.

(v) The cost and availability of specialized expertise necessary for the public improvement: The CM/GC will be an expert at this type of work and will either self-perform or subcontract construction on the project covered by the RFP. The cost of CM/GC staff will be part of the hourly rates for each staff type and determined in the RFP process. Several of the benefits of CM/GC on this project include:

- a. Developing the design documents to reflect the best work plan that accommodates the SHA, design team, and CM/GC contractor;
- b. Producing the best grouping of bid packages that will help ensure better trade coverage;
- c. Determining the most efficient construction staging area;
- d. adjusting the work plan as necessary.

(vi) Any likely increases in public safety: Public safety will most likely only be involved during the construction phases. The CM/GC will be responsible for ensuring that the appropriate safety rules be implemented and followed by staff and subcontractors for all work.

(vii) Whether granting the exemption may reduce risks to the SHA or the public that are related to the public improvement: Having the CM/GC involved in the design phase would reduce any risk of unexpected and unplanned changes and costs during construction.

(viii) Whether granting the exemption will affect the sources of funding for the public improvement: Granting this class exemption will not affect the sources of funding for these public improvements. The projects will be funded by sources outside the CM/GC process, but use of a CM/GC will help the funding agencies more accurately project the financing required to successfully complete the project.

(ix) Whether granting the exemption will better enable the SHA to control the impact that market conditions may have on the cost of and time necessary to complete the public improvement: Use of a CM/GC should help speed up the design/construction part of these projects in order to fully utilize any funding from outside agencies.

(x) Whether granting the exemption will better enable the SHA to address the size and technical complexity of the public improvements: Exempting this class of public improvement contracts from the competitive bidding requirements and authorizing the use of the CM/GC will enable the SHA to ensure that this project is successful. Understanding that Salem is experiencing a lack of affordable housing, our belief is that construction of this property is a step towards a long-term solution.

(xi) Whether the public improvements involve new construction or the renovation or remodel of an existing structure: The improvements involve the construction of a new development. The CM/GC's knowledge of the design expectations will assist in minimizing construction risks and cost overruns.

(xii) Whether the public improvements will be occupied or unoccupied during construction: The improvements will be new construction and, therefore, unoccupied during construction.

(xiii) Whether the public improvements will require a single phase of construction work or multiple phases of construction work to address specific project conditions: The improvements will likely occur in a single phase of construction work. The CM/GC's experience with this type of work will help minimize the length of time required to complete this project.

(xiv) Whether the SHA has, or has retained under contract, and will use SHA 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 SHA will use to award the public improvement contracts and to help negotiate, administer and enforce the terms of the public improvement contracts: The SHA has, and will use, staff that has prior experience and expertise in negotiating similar public improvement contracts with a CM/GC. All contracts will be reviewed and approved by the SHA's legal department, the SHA's Executive Director, and the Housing Administrator prior to execution.