



## **NOTICE OF PUBLIC HEARING**

The Bend Park and Recreation District's board of directors, acting as the District's Contract Review Board ("CRB"), will hold a public hearing on September 18, 2018, beginning at 7:00 p.m. at the following location:

Bend Park and Recreation District Office  
799 SW Columbia Street  
BEND, OREGON 97702

The hearing will be held for the purpose of taking comments on the CRB's draft written findings of fact in support of declaring an exemption from competitive bidding for the Drake Park Bank and Trail Improvements Project. The CRB proposes to use the alternative contracting method of CM/GC (Construction Manager/General Contractor) for construction of a project. A copy of the draft findings may be obtained from the Bend Metro Park and Recreation District's offices at 799 SW Columbia Street, Bend, Oregon 97702; Attn: David Crowther; telephone number (541) 706-6102.

At the public hearing, any interested party may appear and present comments. Both oral and written comments will be considered.



District Office | Don Horton, Executive Director

799 SW Columbia St., Bend, Oregon 97702 | [www.bendparksandrec.org](http://www.bendparksandrec.org) | (541) 389-7275

**FINDINGS OF FACT FOR THE USE OF  
THE CONSTRUCTION MANAGER/GENERAL CONTRACTOR (CM/GC)**

Before the Bend Park and Recreation District Board of Directors

Bend Park and Recreation District	)	Findings of Fact
For the Construction of the	)	Conclusion of Law
Drake Park Bank and Trail Improvements	)	

**SITUATION**

Due to the scope of this construction project, the complexity of trail design and in-water work, and the desire to identify, as early as possible in the construction process, any issues with the project design, the District staff is recommending that the District use the Construction Manager/General Contractor (CM/GC) with a Guaranteed Maximum Price (GMP) construction delivery method. The use of this delivery method requires that the Board grant a specific exemption from the standard competitive bid process for selection of a general contractor and for the use of this alternative contracting method.

The guiding applicable statutes are: ORS 279C.300 which requires, with certain exceptions, that all public improvement contracts be based on competitive bidding and, under ORS 279C.335, be awarded to the lowest responsive and responsible bidder. ORS 279A.050 and ORS 279A.060 permit the Board of Directors of the District to act as the public contract review authority and to grant, under certain conditions, specific exemptions from the requirement for competitive bidding pursuant to ORS 279C.335(2) and ORS 279C.330. The District's Public Contracting Rules allow for alternative contracting methods, 137-069-0600.

The District Board of Directors is the local contract review board for the District pursuant to ORS 279A.060.

**FINDING OF FACT**

Use of the CM/GC method to construct the Drake Park Bank and Trail Improvements should: (a) result in substantial cost savings; and (c) not encourage favoritism nor diminish competition.

Specific findings which substantiate these conclusions are as follows:

**COST SAVINGS**

1. **FINDING:** The CM/GC method will likely alleviate financial risk to the District. Reduced risk provides a significant value and potential savings.
  - A. **REDUCED FINANCIAL RISK IN CONDITIONS:** As well as the multitude of construction market conditions that exist today in Oregon (e.g., competition of other projects, environmental issues that limit construction materials, shortage of qualified craftsman, etc.), the difficulty in establishing the best work sequence complicates our ability to accurately estimate the cost of this project. Because the project has a limited budget, it is essential to reduce the risk of cost overruns.
  - B. **GUARANTEED MAXIMUM PRICE (GMP) ESTABLISHES A MAXIMUM PRICE PRIOR TO COMPLETION OF FINAL CONSTRUCTION DOCUMENTS:** The CM/GC will be able to obtain a complete understanding of the District's needs, the architect's design intent, the scope of the project, and the operational needs of District staff and those who utilize District services by participating in the design development phase. This will result in a clearer understanding of the project scope needed to develop the guaranteed maximum price. With the CM/GC participating in this phase they will be able to offer suggestions regarding design improvement and constructability concerns, and make other suggestions that will reduce costs. With the benefit of this knowledge, the CM/GC will also be able to guarantee a maximum price to be paid by the District for constructing the project.
2. **FINDING:** Early selection of the CM/GC creates more informed, better quality decision making by the

project construction team. A more efficient construction team saves the District money and provides other public benefits.

- A. **ADVANTAGES THE CM/GC BRINGS TO THE TEAM:** The construction project is highly complex because it involves significant construction and re-construction of complicated sections of public trail, including in-water boardwalks and inaccessible areas of trail construction. Use of a CM/GC with specialized expertise in project coordination in conjunction with the team approach will result in a better coordinated project, reduced cost uncertainty, and earlier identification of problem areas. The CM/GC process helps clarify several critical variables valuable to the project design. The CM/GC: guarantees the maximum price (GMP) to complete the project; determines the construction schedule; establishes the sequence of work; is contractually bound to implement the final project design within the GMP; and participates as an essential member of the project design and construction team. The technical complexity of this construction project will be best addressed through the CM/GC process. Several benefits of participation by the CM/GC on this project will be realized: developing the design documents to reflect the best work plan that accommodates both the District and contractor; the best grouping of the bid packages that will help ensure better trade coverage; more efficient construction staging; and help with adjusting the work plan in the event unforeseen circumstances arise.
  - B. **FEWER CHANGE ORDERS:** When the CM/GC participates in the design process, fewer change orders occur during project construction. This is due to the CM/GC's better understanding of the owner's needs and the architect's design intent. As a result, the project is more likely to be completed on time and within budget. In addition, fewer change orders reduce the administrative costs of project management for both the District and the contractor.
  - C. **GMP CHANGE ORDERS COST LESS:** The fewer CM/GC change orders discussed above are processed at a lower cost under the GMP. The design-bid-build method typically results in the contractor charging 15% markup on construction change orders. The GMP method applies lower predetermined markups. The experience of the District has been that the markup is in the range of 8-10%.
  - D. **SAVINGS:** Under the GMP method the District will enjoy the full savings, if actual costs are below the GMP. When the CM/GC completes the project, any savings between the GMP and the actual cost accrue to the District.
  - E. **CONTRACTOR'S FEE IS LESS:** Contracts with CM/GC's are designed to create a better working relationship with the contractor. As a consequence, the overhead and profit fee is generally in the 3-5% range, and the contractors indicate this is slightly lower than the fee anticipated on similar design-bid-build contracts.
3. **FINDING:** The CM/GC process offers a unique opportunity for value engineering that is not possible through the design-bid-build process.
- A. **VALUE ENGINEERING AND CM/GC PARTICIPATION IN THE DESIGN PROCESS:** An essential part of each construction project is the value-engineering evaluation. Value engineering is the means used to determine the best project design that meets the needs and priorities of the owner, within the owner's budget. Value engineering is done most effectively by a team consisting of the owner, architect, consultants, and the contractor. When the contractor participates, the team can render the most comprehensive evaluation of all factors that affect the cost, quality, and schedule of the project.
  - B. **VALUE ENGINEERING WITH THE DESIGN-BID-BUILD PROCESS:** If the District were to utilize the design-bid-build method, the contractor would not participate in this evaluation; hence, value engineering would be conducted without the benefit of:
    - The ability to set the schedule;
    - The ability to sequence work; and

- Commitment from the contractor to implement the design within the schedule and budget.

Through integrated participation, a project scope and design evolve that has greater value for the owner, and is not likely to be the same project created by the design-bid-build method.

## **NOT DIMINISHING COMPETITION OR ENCOURAGING FAVORITISM**

1. **FINDING:** The CM/GC will be selected through a competitive process in accordance with a Request for Proposal process authorized by the Board of Directors. Competition will not be inhibited nor will favoritism be encouraged.
  - A. **SOLICITATION PROCESS:** Pursuant to ORS 279C.360, the CM/GC solicitation will be advertised at least once in the Bend Bulletin and the Daily Journal of Commerce. In addition, the solicitation will be available through the Premier Builder's Exchange, and on the District's website.
  - B. **FULL DISCLOSURE:** To ensure full disclosure of all information, the Request for Proposals solicitation package will include:
    1. Detailed Description of the Project
    2. Contractual Terms & Conditions
    3. Selection Process
    4. Evaluation Criteria
    5. Role of Evaluation Committee
    6. Provisions for Comments
    7. Complaint Process and Available Remedies
  - C. **SELECTION PROCESS:** Other highlights of the selection process will include:
    1. A pre-proposal vendor conference will be announced and held. This conference will be open to all interested parties. During this pre-proposal conference, as well as any time prior to ten (10) days before the close of the solicitation, interested parties will be able to ask questions, request clarifications and suggest changes in the solicitation documents if such parties believe that the terms and conditions of the solicitation are unclear, inconsistent with industry standards, or unfair and unnecessarily restrictive of competition.
    2. Sealed proposals will be submitted to the Business Manager, located at the District Administration Offices at 799 SW Columbia Street, Bend, Oregon 97702, and opened publicly at the time specified in the advertisements.
    3. The evaluation process will determine whether a proposal meets the screening requirements of the RFP, and to what extent. The following process will be used:
      - a. Proposals will be evaluated for completeness and compliance with the screening requirements of the RFP. Those proposals that are materially incomplete or non-responsive will be rejected.
      - b. Proposals considered complete and responsive will be evaluated to determine if they meet and comply with the qualifying criteria of the RFP. If a proposal is unclear, the proposer may be asked to provide written clarification. Those proposals that do not meet all requirements will be rejected.
      - c. Proposals will be independently scored by the voting members of the Selection Committee. Scores will then be combined and assigned to the proposals.
      - d. The Selection Committee may convene to select from the highest-scoring proposers, a group of up to three finalists (if three are available) for formal interviews.
      - e. The Selection Committee may conduct the interviews. The selection committee reserves the right to make a determination without conducting interviews.
      - f. The Selection Committee will use the interview, if conducted, to confirm the scoring of the proposal and to clarify any questions. Based upon the revised scoring, the Selection Committee will rank the proposers, and provide an award recommendation to the Executive

Director who will seek acceptance from the Board of Directors of the District to proceed with the contract negotiation with the highest-ranked proposer.

- g. The Executive Director will negotiate a contract with the top-ranked firm. If an agreement cannot be reached, the District will have the option to enter into an agreement with the second-ranked firm, and so forth.
4. Competing proposers will be notified in writing of the selection of the apparent successful proposal and will be given five (5) calendar days after receipt of the notice to review the RFP file and evaluation report at the District offices. Any questions or concerns about the selection process will be subject to the requirements of the District's Public Contracting Rules, must be in writing, and must be delivered to the Districts' Business Manager within five (5) calendar days after mailing of the selection notice. No protest of the award selection shall be considered after this time period.
5. The contract achieved through this process will require the CM/GC to use an open competitive selection process to bid all components of the job. The CM/GC's overhead and fee makes up 10-15% of the total cost, and will be evaluated as one of the scoring criteria. Overhead, which includes supervision, bonding, insurance, and mobilization, must be within the industry standard range of approximately 10%. The CM/GC's fee must be within the industry standard range of 3-5%. Since these amounts will be scored as part of the competitive RFP process, the entire dollar value of the project will be awarded through open competitive processes, at either the general contractor or subcontractor level.

#### **CONCLUSIONS OF LAW**

Use of the CM/GC process for the Construction of the Drake Park Bank and Trail Improvement project complies with the criteria outlined in ORS 279C.335(2), including the factors in ORS 279C.330:

1. It is unlikely the exemption will encourage favoritism or substantially diminish competition. The publicly-advertised selection process will be fair and open to all interested proposers as established within above findings.
2. The exemption will likely result in substantial cost savings to the District. Also, value will be added to the project that could not otherwise be obtained.

#### **PROPOSED RESOLUTION**

##### **RESOLUTION # 417 GRANTING BIDDING EXEMPTION, AUTHORIZING CONSTRUCTION OF THE DRAKE PARK BANK AND TRAIL IMPROVEMENT PROJECT BY MEANS OF A CONSTRUCTION MANAGER/GENERAL CONTRACTOR AND AUTHORIZING SELECTION BY REQUEST FOR PROPOSALS**

WHEREAS, ORS Chapter 279A authorizes the District's Board of Directors to designate itself as the local contract review board for the District, and

WHEREAS, the Board of Directors of Bend Park and Recreation District, has designated itself as the local contract review board for the District, and in that capacity has authority to exempt certain contracts from the competitive bidding requirements of ORS Chapter 279C, and

WHEREAS, ORS 279C.335(2) provides for a process for exempting certain public improvement contracts from competitive bidding and the District's Public Contracting Rules authorize the selection of a contractor through the CM/CG process as set forth in Rule 137-049-0690, and

WHEREAS, the Board determines that Construction of the Drake Park Bank & Trail Improvements should be constructed by a CM/GC.

The Board finds as follows:

1. The Board adopts the specific findings of fact set forth above.
2. The exemption of the CM/GC contract from competitive bidding will promote competition and will not encourage favoritism, because the CM/GC will be chosen by the request for proposals process, and the major portion of the construction work will be performed by subcontractors chosen by competitive bidding.
3. The exemption of the CM/GC contract from competitive bidding will likely result in substantial cost savings to the District, for the reasons set forth in the findings above.
4. The exemption of the CM/GC contract also appears to be in the best interest of the District in that the use of the CM/GC process will permit the District to complete the construction within a Guaranteed Maximum Price (GMP) and within a reasonable time with minimum redesign effort.

NOW, THEREFORE, the Board of Directors resolves as follows:

The contract for the Construction of the Drake Park Bank and Trail Improvement Project by a Construction Manager/General Contractor for a Guaranteed Maximum Price is exempted from competitive bidding, and the CM/GC shall be selected by the Request-for-Proposals method in accordance with the District's Public Contracting Rules, 137-049-0690, and the process described in the above findings.

#### **RECOMMENDATION**

Board members are asked to review these Findings, Conclusions, and Proposed Resolution, ask questions, take public comments, and provide input at the District Board's September 18, 2018 meeting. Board action on this proposal is recommended.

## **BEFORE THE BOARD OF DIRECTORS OF THE BEND METRO PARK AND RECREATION DISTRICT**

### **Process for Using the CM/GC Method off Contracting for Construction of Drake Park Bank and Trail Improvements**

INTRODUCTION. Due to the scope of the Drake Park Bank and Trail Improvements project, the complexity of trail design and in-water work, and the desire to identify, as early as possible in the construction process, any issues with the project design, the District staff is recommending that the District use the Construction Manager/General Contractor (CM/GC) with a Guaranteed Maximum Price (GMP) construction delivery method.

In summary, the CM/GC process consists of two parts: (1) An RFP for professional services to obtain a qualified person or firm to act as the construction manager; and (2) a determination of the costs of construction to be performed by the same person or firm acting as a general contractor, after quoting a guaranteed maximum price (GMP) for construction. Because this approach is an alternative to the traditional design-bid-build construction method contemplated by Oregon's public contracting code, use of this process requires that the Local Contract Review Board grant a specific exemption from the standard competitive bid process for the use of this contracting method.

Oregon Revised Statutes (ORS) 279C.335 permits the District's Board of Directors, acting as the Local Public Contract Review Board, to exempt specific projects from the standard competitive bidding requirements of ORS 279C after following required statutory procedures, specifically adopting written findings of fact justifying both use of the an exemption from bidding and an alternative contracting method; holding a public hearing on the adoption of the findings; and declaring an exemption from competitive bidding. When approving the exemption the Local Contract Review Board "shall, where appropriate, direct the use of alternative contracting and purchasing practices that take account of market realities and modern or innovative contracting and purchasing methods, which are also consistent with the public policy of encouraging competition."

The findings in support of the exemption must show that (a) the exemption is unlikely to encourage favoritism in awarding public improvement contracts or substantially diminish competition for public improvement contracts; and (b) awarding a public improvement contract under the exemption will likely result in substantial cost savings and other substantial benefits to the contracting agency or the state agency that seeks the exemption or, if the contract is for a public improvement described in ORS 279A.050 (3)(b), to the contracting agency or the public.

The findings must consider, but are not limited to, the following information:

- (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.

RECOMMENDATION. Board members are asked to review these Findings of Fact and Proposed Resolution, ask questions, take public comments, and provide input at the District Board's September 18, 2018 meeting. Board action on this proposal is recommended.

## **EXHIBIT A**

### **FINDINGS OF FACT**

#### **JUSTIFYING THE USE OF THE CONSTRUCTION MANAGER/GENERAL CONTRACTOR (CM/GC) FORM OF CONTRACTING FOR CONSTRUCTION OF THE DRAKE PARK BAND AND TRAIL IMPROVEMENTS**

Use of the CM/GC method to construct the Drake Park Bank and Trail Improvements should: (a) result in substantial cost savings; and (c) not encourage favoritism nor diminish competition. Specific findings substantiating these conclusions are as follows:

#### **COST SAVINGS**

- 1. FINDING:** The CM/GC method will likely reduce financial risk to the District, resulting in cost savings.
  - A. REDUCED FINANCIAL RISK POSED BY MARKET AND PROJECT CONDITIONS:** Because the project has a limited budget, it is essential to reduce the risk of cost overruns. Over and above the multitude of current, highly variable construction market conditions (e.g., competition of other projects, environmental issues that limit construction materials, shortage of qualified craftsman, etc.) that make it difficult to project construction costs and timelines, the complexity of this project makes it difficult to establish the best work sequence for ensuring the project is completed as efficiently as possible. Use of a construction manager to coordinate and supervise these processes is expected to minimize the variables that can result in increased costs.
  - B. GUARANTEED MAXIMUM PRICE (GMP) ESTABLISHES A MAXIMUM PRICE PRIOR TO COMPLETION OF FINAL CONSTRUCTION DOCUMENTS:** Because the CM/GC participates in the design development phase, the person or firm will be able to obtain a complete understanding of the District's needs, the architect's design intent, the scope of the project, and the operational needs of District staff and those who utilize District services. This will result in a clearer understanding of the project scope needed to develop the guaranteed maximum price for construction. During this phase, the CM/GC will be able to offer suggestions regarding design improvement and constructability concerns, and make other suggestions for reducing



costs, and offer as fair and accurate guaranteed maximum price for construction.

2. **FINDING:** Early selection of the CM/GC creates more informed, better quality decision-making by the project construction team. A more efficient construction team saves the District money and provides other public benefits.

- A. **ADVANTAGES THE CM/GC BRINGS TO THE TEAM:** The technical complexity of this construction project will be best addressed through the CM/GC process.

The construction project is highly complex because it involves significant construction and re-construction of complicated sections of public trail, including in-water boardwalks and inaccessible areas of trail construction. Use of a CM/GC with specialized expertise in project coordination in conjunction with the team approach will result in a better coordinated project, reduced cost uncertainty, and earlier identification of problem areas.

The CM/GC process helps clarify several critical variables valuable to the project design: It guarantees the maximum price (GMP) to complete the project; determines the construction schedule; establishes the sequence of work; is contractually bound to implement the final project design within the GMP; and participates as an essential member of the project design and construction team. Benefits of this approach include developing the design documents to reflect the best work plan that accommodates both the District and contractor; achieving the best grouping of the bid packages that will help ensure better trade coverage; more efficient construction staging; and help with adjusting the work plan in the event unforeseen circumstances arise.

- B. **FEWER CHANGE ORDERS:** When the CM/GC participates in the design process, fewer change orders occur during project construction. This is due to the CM/GC's better understanding of the owner's needs and the architect's design intent. As a result, the project is more likely to be completed on time and within budget. In addition, fewer change orders reduce the administrative costs of project management for both the District and the contractor.
- C. **GMP CHANGE ORDERS COST LESS:** When CM/GC change orders are required, they are typically processed at a lower cost under the GMP. The design-bid-build method typically results in the contractor charging 15% markup on construction change orders. The GMP method applies lower predetermined markups. District experience has been the markup is in the range of 8-10%.
- D. **SAVINGS:** Under the GMP method, when the CM/GC completes the project, any savings between the GMP and the actual cost accrue to the District. The CM/GC bears the risk of cost overruns.
- E. **CONTRACTOR'S FEE IS LESS:** CM/GC contracts are designed to create a better working relationship with the contractor. As a consequence, the overhead and profit fee is generally in the 3-5% range, and contractors indicate this is slightly lower than

the fee anticipated on similar design-bid-build contracts.

3. **FINDING:** The CM/GC process offers a unique opportunity for value engineering that is not possible through the design-bid-build process.

A. **VALUE ENGINEERING AND CM/GC PARTICIPATION IN THE DESIGN PROCESS:** An essential part of each construction project is the value-engineering evaluation. Value engineering is the means used to determine the best project design that meets the needs and priorities of the owner, within the owner's budget. Value engineering is done most effectively by a team consisting of the owner, architect, consultants, and the contractor. When the contractor participates, the team can render the most comprehensive evaluation of all factors that affect the cost, quality, and schedule of the project.

Under the traditional design-bid-build method, the contractor would not participate in this evaluation; hence, value engineering would be conducted without the benefit of:

- The ability to set the schedule;
- The ability to sequence work; and
- Commitment from the contractor to implement the design within the schedule and budget.

Through integrated participation, a project scope and design evolve that has greater value for the owner, and is not likely to be the same project created by the design-bid-build method.

### **NO DIMINISHING OF COMPETITION OR ENCOURAGING FAVORITISM**

**FINDING.** The CM/GC will be selected through a competitive process using a Request for Proposal process authorized by the Board of Directors, and complying with public contracting rules and requirements. Competition will not be inhibited nor will favoritism be encouraged.

A. **SOLICITATION PROCESS:** Pursuant to ORS 279C.360, the CM/GC solicitation will be advertised at least once in the *Bend Bulletin* and the *Daily Journal of Commerce*. In addition, the solicitation will be available through the Premier Builder's Exchange, and on the District's website.

B. **FULL DISCLOSURE:** To ensure full disclosure of all information, the Request for Proposals solicitation package will include:

1. Detailed Description of the Project
2. Contractual Terms & Conditions
3. Selection Process
4. Evaluation Criteria
5. Role of Evaluation Committee
6. Provisions for Comments
7. Complaint Process and Available Remedies

C. SELECTION PROCESS: Other highlights of the selection process will include:

1. A pre-proposal vendor conference will be announced and held. This conference will be open to all interested parties. During this pre-proposal conference, as well as any time prior to ten (10) days before the close of the solicitation, interested parties will be able to ask questions, request clarifications and suggest changes in the solicitation documents if such parties believe that the terms and conditions of the solicitation are unclear, inconsistent with industry standards, or unfair and unnecessarily restrictive of competition.
2. Sealed proposals will be submitted to the Business Manager, located at the District Administration Offices at 799 SW Columbia Street, Bend, Oregon 97702, and opened publicly at the time specified in the advertisements.
3. The evaluation process will determine whether a proposal meets the screening requirements of the RFP, and to what extent. The following process will be used:
  - a. Proposals will be evaluated for completeness and compliance with the screening requirements of the RFP. Those proposals that are materially incomplete or non-responsive will be rejected.
  - b. Proposals considered complete and responsive will be evaluated to determine if they meet and comply with the qualifying criteria of the RFP. If a proposal is unclear, the proposer may be asked to provide written clarification. Those proposals that do not meet all requirements will be rejected.
  - c. Proposals will be independently scored by the voting members of the Selection Committee. Scores will then be combined and assigned to the proposals.
  - d. The Selection Committee may convene to select from the highest-scoring proposers, a group of up to three finalists (if three are available) for formal interviews.
  - e. The Selection Committee may conduct the interviews. The selection committee reserves the right to make a determination without conducting interviews.
  - f. The Selection Committee will use the interview, if conducted, to confirm the scoring of the proposal and to clarify any questions. Based upon the revised scoring, the Selection Committee will rank the proposers, and provide an award recommendation to the Executive Director who will seek acceptance from the Board of Directors of the District to proceed with the contract negotiation with the highest-ranked proposer.
  - g. The Executive Director will negotiate a contract with the top-ranked firm. If an agreement cannot be reached, the District will have the option to enter into an agreement with the second-ranked firm, and so forth.
4. Competing proposers will be notified in writing of the selection of the apparent successful proposal and will be given five (5) calendar days after receipt of the notice to review the RFP file and evaluation report at the District offices. Any questions or concerns about the selection process will be subject to the requirements of the District's Public Contracting Rules, must be in writing, and must be delivered to the District's Business Manager within five (5) calendar days after mailing of the selection notice. No protest of the award selection shall be considered after this time period.
5. The contract achieved through this process will require the CM/GC to use an open

competitive selection process to bid all components of the job. The CM/GC's overhead and fee will be evaluated as one of the scoring criteria. Overhead, which includes supervision, bonding, insurance, and mobilization, must be within the industry standard range of approximately 10%. The CM/GC's fee must be within the industry standard range of 3-5%. Since these amounts will be scored as part of the competitive RFP process, the entire dollar value of the project will be awarded through open competitive processes, at either the general contractor or subcontractor level.

## **PROPOSED RESOLUTION**

### **RESOLUTION # 417**

#### **ADOPTING FINDINGS OF FACT, GRANTING BIDDING EXEMPTION, AND AUTHORIZING CONSTRUCTION OF THE DRAKE PARK BANK AND TRAIL IMPROVEMENT PROJECT USING THE CONSTRUCTION MANAGER/GENERAL CONTRACTOR (CM/GC) METHOD**

WHEREAS, the Board of Directors of Bend Park and Recreation District (“District”) is the Local Contract Review Board for the District, and in that capacity has authority to exempt certain contracts from the competitive bidding requirements of ORS Chapter 279C, and

WHEREAS, ORS 279C.335(2) authorizes the Local Contract Review Board to exempt certain public improvement contracts from traditional competitive bidding and the District’s Public Contracting Rules authorize the selection of a contractor through the CM/CG process as set forth in Rule 137-049-0690, and

WHEREAS, the Board has determined that the Drake Park Bank & Trail Improvements should be constructed using a CM/GC process;

WHEREAS, a public hearing for the purpose of taking testimony of draft Findings of Fact justifying an exemption from traditional competitive bidding was held on September 18, 2018, as required by ORS 279C.335(5);

NOW, THEREFORE, the Board hereby resolves as follows:

**NOW, THEREFORE**, the Board of Directors, acting as the District’s Local Contract Review Board, hereby resolves as follows:

1. The written Findings of Fact attached hereto as Exhibit A are adopted.
2. An exemption from traditional construction bidding processes is declared and use of the CM/GC alternative form of contracting is authorized.
3. Staff is directed to execute the process for soliciting for and obtaining the services of a qualified CM/GC for the design and construction of the Drake Park Bank & Trail Improvements