

**EXEMPTION #2007-51**

Before the Director, Department of Transportation  
of the State of Oregon

In the Matter of the Exemption Request	)	REQUEST FOR AMENDED,
For the Willamette River Bridge, Bundle 220 on	)	EXEMPTION ORDER, FINDINGS
Interstate 5, a National Highway System Highway	)	OF FACT AND CONCLUSIONS
located in Lane County, Oregon by the	)	OF LAW
Oregon Department of Transportation	)	

**AMENDED EXEMPTION ORDER**

**Findings of Fact:**

On August 16, 2007, ODOT submitted to the Director of the Oregon Department of Transportation a Findings of Fact and Order for an Exemption from the competitive bidding requirements of ORS 279C.335(2), which was approved on August 21, 2007. The Findings of Fact submitted in support of this Request for an Amended Exemption are attached and hereby approved.

ORS 279C.330 defines "Findings" and identifies specific information to be provided as part of the agency justification. Under ORS 279C.335(5) a public hearing must be held before these findings are adopted, allowing the opportunity for all interested parties to comment on the draft findings.

The amended findings of fact was advertised in the *Daily Journal of Commerce and the Reed Business Information* on October 15, 2007, and was also posted on the ODOT Major Projects Branch website at:

<http://www.oregon.gov/ODOT/HWY/MPB/cmgc.shtml>

The hearing for review of these findings was held at 2:00 pm on November 1, 2007 at the Department of Transportation, 680 Cottage St., NE, Salem Oregon 97301. There were no comments from the public, either written or oral, during this hearing or during the time for comments.

**Conclusions of Law:**

An exemption from competitive bidding requirements is justified under the criteria outlined in ORS 279C.330. Findings have been developed in compliance with ORS 279C.335(2) through 279C.335(4) and ODOT will perform the post project evaluation required by ORS 279C.355. Based upon the previously listed findings, ODOT specifically concludes that:

- A) Following the described selection process, an exemption is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts.
- B) Award of a public contract pursuant to the exemption will result in substantial cost savings to ODOT and the public.

**Grant of Amended Exemption:**

Based upon Findings of Fact, Conclusions of Law and good cause appearing therefore:

Exemption 2007-51 is hereby amended and granted in its amended form to the Oregon Department of Transportation to enter into a public improvement contract utilizing the Construction Manager/General Contractor (CM/GC) alternative contracting method as described in the preceding findings.

This Amended Exemption Order is subject to the following conditions:

- 1) To the extent possible and consistent with this Exemption, this procurement will follow the provisions of ORS Chapter 279A and 279C, ORS Chapter 291; OAR Chapter 731, Division 5 (ODOT Public Contract Rules) and Division 7 (ODOT Public Improvement Contracts).
- 2) ODOT, in concert with the Oregon Department of Justice (DOJ), shall establish and follow standards for evaluating proposals under this procurement.
- 3) ODOT shall work with DOJ to adapt standard contract language for the contract, and shall incorporate into the contract such additional or substitute additional terms that DOJ may determine to be necessary for compliance with Oregon law.

THE REQUEST FOR AN AMENDED EXEMPTION IS HEREBY APPROVED.

  
\_\_\_\_\_  
Director, Department of Transportation

12-7-07  
\_\_\_\_\_  
Date

REVIEWED BY THE DEPARTMENT OF JUSTICE

*Reviewed by Keith N. Jones, Senior AAG, via email dated 11-26-07*  
\_\_\_\_\_  
Senior Assistant Attorney General, Oregon DOJ

\_\_\_\_\_  
Date