

January 17, 2008

08-052

GRANT WAIVER FROM STANDARD  
PERFORMANCE AND PAYMENT BOND  
REQUIREMENTS ON THE WILLOW CREEK  
PROJECT.

PREPARED BY:

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FINANCIAL  
RESPONSIBILITY:

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APPROVED BY:

Randy McEwen, District Vice President  
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REPORT:

On September 20, 2008 the Portland Community College Board of Directors approved Resolution 08-016 to exempt from competitive bidding and award a Design Build contract to Gerding Edlen Development Company LLC (GED) to design and construct an approximately 100,000 square foot office building located on property to be acquired from Tri-Met adjacent to the Willow Creek Light Rail Station.

Portland Community College Rules of Procurement (per ORS 279C.380(1)(a)) requires a Design Build Contractor to provide Performance and Payment Security to cover the full scope of the project, including construction, soft costs, project management, and design. The statute permits the Board to waive or reduce the bonding requirements on a case by case basis. Due to the fact that GED is not in and of itself a licensed contractor, single Performance and Payment Bonds covering the entire scope of the project would be difficult to obtain, cost prohibitive and a pass through expense to the College.

In a standard design-bid-build or construction manager/general contractor (CM/GC) project, only the construction portion of the project is required to be bonded. The purpose of performance and

payment security is to ensure that the College can complete the project and pay the subcontractors in event of a default by the contractor. The College can accomplish that purpose at a lower cost by requiring performance and payment bonds in favor of the College for the construction portion of the project and with contractual language allowing the College to assume the design contract in the event of design-build contractor defaults.

**RECOMMENDATION:**

That the Portland Community College Board in their capacity as the Local Contract Review Board grant an exception to its Rules of Procurement to waive the single Performance Security requirement and per ORS 279C.380 (4), authorize the College to require GED to provide directly or through their sub-contractors sufficient Performance and Payment Security to cover the construction portion of the project.