

**DRAFT FINDINGS OF FACT
DESIGN-BUILD ALTERNATE
CONTRACTING PROCEDURE**

- (a) BSD Staff finds that this exemption is unlikely to encourage favoritism in awarding public improvement contracts or substantially diminish competition for public improvement contracts.
- (b) BSD Staff finds that this exemption is likely to result in substantial benefit to the District.

A. Findings related to how many persons are available to bid: Staff finds that granting this exemption will not substantially limit the number of firms available to bid, since procurement will be through a publicly-advertised process. Response/interest levels for recent roofing and roofing-related solicitations indicate a highly competitive environment for the types of design and construction services encompassed in this project. This interest has included general contractor Design Build firms that have not shown interest in past roofing projects, suggesting that current market conditions provide an opportunity for the district to competitively procure the necessary services under the Design-Build model for this project.

B. Findings related to the construction budget and the projected operating costs for the completed public improvement: Staff finds that granting this exemption is likely to result in reduced construction and design costs. Because the preferred design and specific requirements for the re-roof and HVAC work at Bethany Elementary School is unknown at this time, using a Design-Build delivery method will enable the District to quickly and efficiently generate and analyze several iterations to best meet permit requirements and available funds. Staff's initial assessment is such that this project will not require extensive or highly complicated design work. Under the Design-build model, the District and Contractor are well positioned to limit the design work/costs to only those necessary for the project. After the design is completed, the Design-Build contract allows the District to initiate construction without a lapse in Project timelines. It also integrates the design firm with the contractor to consider alternative means and methods of construction and optimize cost savings.

C. Findings related to public benefits that may result from granting the exemption: Staff finds that the public is likely to benefit from the granting of this exemption. Because of the age and condition of the roof and HVAC at Bethany Elementary School, it is critical that the project be completed within the relatively narrow work window for School District projects. Granting of this exemption will assist the District in attracting a capable, qualified contractor. Additionally, Staff finds that because of the continuity of team members throughout the process and the improved timeline, there will be a public benefit by receiving potentially reduced construction costs.

D. Findings related to whether value engineering techniques may decrease the cost of the public improvement: Staff finds that granting this exemption has the potential to increase value engineering opportunities. In contrast to the Design-Bid-Build (low bid) process, contractors will include a scope narrative in their proposals, which typically include alternative process strategies or cost savings opportunities. These alternative process improvement and cost saving strategies will be included in the contract award decision.

E. Findings related to the cost and availability of specialized expertise that is necessary for the public improvement: Not applicable. Staff finds that specialized expertise will not be required to coordinate, procure, and install various products, services, and supplies needed for replacement of the re-roof and HVAC equipment.

F. Findings related to any likely increases in public safety: Not applicable. Staff finds that granting this exemption will have no effect on public safety.

- G. Findings related to whether granting the exemption may reduce risks to the contracting agency, the state agency or the public that are related to the public improvement:** Staff finds that granting this exemption will reduce risk to the School District by allowing proposals only from contractors who have demonstrated they are qualified to complete the work successfully. Also, by integrating the design firm with the contractor the District is able to consider alternative means and methods earlier in the process.
- H. Findings related to whether granting the exemption will affect the sources of funding for the public improvement:** Not applicable. Staff finds that granting this exemption will have no effect on funding sources for the project.
- I. Findings related to whether granting the exemption will better enable the contracting agency to control the impact that market conditions may have on the cost of and time necessary to complete the public improvement:** With the multitude of construction market factors that exist today in Oregon (e.g. COVID-19, completion of other projects, environmental issues that limit construction materials, shortage of qualified craftsman, inflation, etc.), Staff finds that granting this exemption allows the School District to be more responsive to market conditions by structuring the project delivery method that typically offers the project owner the most opportunity to provide input and consultation prior to the project starting.
- J. Findings related to whether granting the exemption will better enable the contracting agency to address the size and technical complexity of the public improvement:** Staff finds that granting this exemption will allow the School District to accept bids only from contractors who have demonstrated considerable experience in delivering similar projects successfully.
- K. Findings related to whether the public improvement involves new construction or renovates or remodels and existing structure:** This project will involve the remodel of an existing structure that fits the Design-Build project delivery method well.
- L. Findings related to whether the public improvement will be occupied or unoccupied during construction:** This project will be unoccupied during construction.
- M. Findings related to whether the public improvement will require a single phase of construction work or multiple phases of construction work to address specific project conditions:** This project will have a single phase and will not be affected by the granting of this exemption.
- N. Findings related to whether the contracting agency has, or has retained under contract, and will use contracting agency 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 contracting agency will use to award the public improvement contract:** Staff will rely mostly on their experience, having successfully used the Design Build method on many other projects in the current bond program. The District also relies upon outside legal counsel, appointed by the School Board to provide construction contracting legal advice. Using their combined expertise and experience, staff and counsel will oversee developing the alternative contracting method and its implementation, including negotiating, administering, and enforcing the terms of the Design Build contract.