

**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 unreasonably limit the number of firms available to bid, since procurement will be through a publicly-advertised process.
- 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 Westview High School Career Technical Education (CTE) scope of work is unknown at this time, but not believed to be particularly complicated Using a Design-Build delivery method will enable the District to quickly and efficiently generate and analyze several design iterations too best meet permit requirements and available funds. As the design nears completion the Design-Build contract allows the District to initiate construction early work 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 will benefit from the granting of this exemption. Because of the time limitations with State funded CTE grant program, it is critical that the project be completed on time as the funding source has a fixed deadline. Granting of this exemption will allow the District to contract with a capable, qualified contractor. Additionally, Staff finds that the continuity of team members throughout the process greatly improves the adherence to the timeline, and there will be a public benefit by potentially reducing 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. Contractors will be bidding a scope narrative, therefore there will be incentive and opportunity to include value engineering ideas in their approach.
- E. Findings related to the cost and availability of specialized expertise that is necessary for the public improvement:** Staff finds that specialized expertise will not be required to coordinate, procure, and install various products, services, and supplies needed for the CTE scope of work.
- 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 only bidders who have demonstrated they are qualified to complete the work successfully. This consideration will be included in the evaluation of the RFP under which the contract would be solicited, and is not possible under the low cost requirement from which we are seeking exemption. Also, by integrating the design firm with the contractor they are 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:** This project is funded by a state grant with a definite spending

deadline. The ability to achieve faster project completion that is possible under the design-build method is necessary to realize the grant funds that are budgeted for this project to be completed.

- 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 a project delivery method that lends itself to more efficient and timely project delivery.
- 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 evaluate proposals in a way that considers contractors demonstrated, considerable experience in successfully delivering similar projects.
- 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 occur in both occupied and unoccupied sections of the building during construction. Granting this exception will better prepare the District to coordinate construction while the school is occupied.
- 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 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.