

Exhibit A

FINDINGS OF FACT FOR THE USE OF THE DESIGN BUILD CONTRACTING METHOD

Before the Hermiston City Council

Regarding Design Build Services for Signage, Various Locations

The City of Hermiston ("City") is in western Umatilla County, Oregon; Hermiston is a rapidly growing, diverse, inclusive community, built on community engagement and partnerships, livability, and fiscal prudence. The current population is 20,322 citizens.

The scope of work and related budget associated with this Exemption includes signage needs at multiple locations within the City of Hermiston, including but not limited to the monument sign on Highway 395 North and Airport Way; the total anticipated budget for the monument sign at this location is approximately \$75,000.

The project requires attention and diligence from a competent contractor to complete the respective projects within budget and in a timeframe that supports the City's operations and community use. In consideration of these facts, an alternative method of construction should be considered; therefore, under the Oregon Statutes and based upon the following findings, the City Council is authorizing the use of the Design/Build (D/B) method of construction contracting.

The guiding applicable statute is ORS 279C.335 which requires, with certain exemptions, that all public contracts be based on competitive bidding and be awarded to the lowest responsive and responsible bidder. ORS 279A.060, ORS 279C.335(2) and ORS 279.330 permit the City Council to act as the public contract review authority and to grant, under certain conditions and upon certain findings, specific exemptions from the requirement for competitive bidding.

Finding of Fact

Use of the Design/Build method to construct the City's signage projects will: (a) result a in more predictable schedule, ensuring that the available construction budget aligns with the scope of work, and reducing the financial risk to the City; (b) will not impact the funding source for the project; and (c) not encourage favoritism nor diminish competition.

Specific findings which substantiate these conclusions are as follows:

- 1. Finding:** The City Council finds that the Design/Build method will result in more predictable schedule and construction costs and reduced financial risk to the City.
 - a. Reduced Financial Risk:** The Design/Build delivery method will result in more predictable costs and less financial risk. Through discussions with the City, the Design/Builder will be able to obtain a complete understanding of the City's needs, the scope of the project, and the operational needs of the City. With the Design/Builder's pre-construction participation, they will offer suggestions for cost savings, value engineering opportunities, and improvements to any proposed design. This will result in a schedule and project scope that fits within the available

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funds. With the benefit of this knowledge, the Design/Builder will be able to establish and affirm a Guaranteed Maximum Price (GMP) for the scope of work.

- b. Schedule:** With the Design/Builder managing the entire project, the Design/Builder can develop a schedule with the City as part of the pre-construction phase.
 - c. Fewer Change Orders:** When the Design/Builder is responsible for the design process, fewer change orders will occur during the construction process. This is due to the Design/Builder's understanding of the City's needs and intent. As a result, the project is more likely to be completed on time and on budget. In addition, fewer change orders reduce project management costs for both the City and the contractor.
 - d. GMP Savings:** Under the Design/Build delivery method the City will enjoy full savings, if actual costs are below the GMP. When the Design/Builder completes the project, any savings between the actual costs and the GMP are returned to the City.
- 2. Finding:** The City Council finds that there will be no impact on the funding sources as a result of this exemption. The City's funding sources for this project will remain the same whether accomplished through a traditional design-bid-build process or through the Design/Build process. No adverse impact on the funding source will occur because of this exemption.
- 3. Finding:** The City Council finds that competition will not be inhibited, nor will favoritism be encouraged because of this exemption. The Design/Build team will be selected through a competitive negotiation process in accordance with the cost and qualification-based process authorized by City Administration and Council.
 - a. Solicitation Process:** Pursuant to ORS 279C.400 the Design/Build Request for Proposal (RFP) solicitation will be advertised in local and regional publications of general and industry specific circulation.
 - b. Full Disclosure:** To ensure full disclosure of information, the RFP will include the following information:
 - i. Detailed Description of the Project
 - ii. Contractual Terms and Conditions
 - iii. Selection Process
 - iv. Evaluation Criteria
 - v. Role of the Evaluation Committee
 - vi. Provision for Comments
 - vii. Complaint Process and Remedies
 - c. Selection Process:** Highlights of the selection process will include:
 - i. During the pre-proposal period, interested parties will, at any time prior to seven (7) business days before the close of the solicitation, be able to ask questions and request clarifications if they believe that any of the terms and conditions of the solicitation are unclear, inconsistent with industry standards or unfair and unnecessarily restrictive of competition.
 - ii. Sealed proposals will be submitted to the City at a time specified in the advertisements.
 - iii. The following evaluation process will be used:

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1. Proposals will be evaluated for completeness and compliance with the requirements of the RFP.
 2. Proposals considered complete and responsive will be evaluated to determine if they meet 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 the requirements will be rejected.
 3. Proposals will be independently scored against predetermined criteria by the voting members of the Evaluation Committee. Scores will be combined and assigned to each proposal.
 4. The Evaluation Committee may convene to select from the highest ranked proposals a finalist(s) for interviews.
 5. The Evaluation Committee may conduct interviews.
 6. The Evaluation Committee may use the interview to confirm the scoring of the proposal and to clarify questions. Based on the revised scoring, the Evaluation Committee will rank the proposals and provide an award recommendation.
 7. The City and legal counsel will negotiate a contract with the top ranked firm. If an agreement cannot be reached, the City will have the option to enter into an agreement with the second-ranked firm, and so on.
- iv. Competing Design/Build firms will be notified in writing of the selection of the apparent successful proposal and will be given seven (7) calendar days after receipt of the notice to review the RFP file and evaluation report at City Hall. Any questions or concerns about the selection process must be delivered to the City within seven (7) calendar days after receipt of the selection notice. No protest of the award selection shall be considered after this time.
 - v. The contract achieved through this process will require the Design/Build team to use an open and competitive selection process for all components of the project.
4. **Finding:** The City Council finds that there will be no adverse impact on the operations, finance, and budget if this exemption is provided. Whether this project is secured through a traditional design-bid-build method or through the Design/Build process, the operations, financial, and budgetary impact will be the same – other than the potential savings mentioned in Finding #1. More importantly, there will be no adverse impact on operations, financial or budgetary data using the Design/Build process.

Conclusion of Findings of Fact

It is in the best interest of the City of Hermiston to utilize the Design/Build project delivery method. The Design/Build method will (a) result a in more predictable schedule, ensure the available construction budget aligns with the scope of work, and reduces financial risk to the City; (b) will not impact the funding source for the project; and (c) not encourage favoritism nor diminish competition.