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

Before the City Council for the City of Hermiston

Regarding the Health, Aquatics, and Wellness Center (HAWC) Project

The City of Hermiston ("Owner") is planning a regional Health, Aquatics, and Wellness Center (HAWC), a year-round facility intended to serve residents of all ages and abilities in Hermiston and surrounding communities.

The preliminary scope of work associated with this exemption includes the following:

- A regional, year-round health, aquatics, wellness, recreation, and community facility, including a natatorium, and both new and renovated aquatics infrastructure and amenities.
- Site development, utilities, parking, accessibility improvements, and related work necessary to support the new public facility. The final program and scope will be confirmed during validation and design.

It is in the best interest of the City of Hermiston to use the Progressive Design Build (PDB) project delivery method for this project. PDB will provide an integrated design and construction team responsible for aligning scope, budget, schedule, procurement, and construction planning from the beginning of the project. The PDB method will:

a. Support an expedited and coordinated schedule, which may reduce management and oversight costs;
b. Reduce financial risk to the City by providing continuous cost information as design and construction planning are developed;
c. Allow the City to make design, scope, and material decisions that maximize the value of the public improvement while staying within budget;
d. Allow the City to select a Design-Builder with specialized aquatics, recreation, wellness, and public-facility construction experience;
e. Support a construction schedule that only closes the existing facility for a maximum of a single summer; and
f. Not encourage favoritism or diminish competition.

In consideration of these facts, an alternative method of construction should be considered. Therefore, under the Oregon statutes and based on the following findings, the City Council authorizes the use of the PDB method of construction contracting.

The guiding statute is ORS 279C.335, which requires, with certain exemptions, that public contracts be based on competitive bidding and awarded to the lowest responsive and responsible bidder. ORS 279A.060, ORS 279C.335(2), and ORS 279C.330 permit the City Council to act as the public contract review authority and, under certain conditions and upon certain findings, grant specific exemptions from the requirement for competitive bidding.

Findings of Fact

The findings are draft until after the public hearing. The findings are necessary to facilitate discussion and are not intended to be yes/no decision-making tools.

The draft fourteen findings are as follows:

1. **How many persons are available to bid?**
   The City Council finds that this exemption will not inhibit competition or encourage favoritism. The Design-Builder will be selected through a competitive procurement process based on cost and qualifications, as authorized by City administration and the City Council.

   Pursuant to ORS 279C.400, the solicitation for the Design-Builder will be advertised on the City's website and in statewide publications of general and industry-specific circulation.

   Based on the regional and specialized nature of the project, the City expects multiple qualified Design-Builders with aquatics, recreation, wellness, and public-facility experience to be available and interested in the work.

2. **Construction budget and projected operating costs for the completed public improvement.**
   The current preliminary total project budget is estimated at approximately $59,569,000 to $63,536,000, including construction costs, development and soft costs, contingency, and escalation to the third quarter of 2028. Operating costs and cost-recovery assumptions will continue to be evaluated as the program, site, and building systems are refined.

3. **Public benefits that may result from granting the exemption.**
   Public benefits resulting from the PDB method include helping the City deliver the HAWC scope within available funding while maximizing the value of the public improvement. In this context, best value means balancing cost, quality, schedule, long-term performance, operational sustainability, and community needs.

   The PDB method will allow the City, designer, and builder to work as an integrated team to confirm project scope, cost, schedule, procurement needs, and construction planning early in the project. This will help the City make informed decisions before major design decisions are finalized. Schedule certainty is important because the City's preliminary schedule targets opening the new facility in summer 2029. Integrated planning will also support budget management, coordinated phasing, and the City's ability to respond to cost and material uncertainty.

4. **Whether value engineering techniques may decrease the cost.**
   In PDB, value engineering is the process of maximizing value, not simply cutting cost. Value engineering occurs throughout design and construction planning in tandem with continuous cost estimating. For this project, the Design-Builder will work with the City so that design options consider cost, quality, durability, constructability, schedule, and how well they support the City's programmatic, operational, and community needs.

   Because design and construction planning are integrated, the City can evaluate options for pools and aquatic systems, gymnasium and fitness spaces, building systems, site work, utilities, parking, accessibility, materials, phasing, and long-lead items while the design is still flexible. This process may reduce the risk of developing a design that later exceeds the available budget and requires redesign.

5. **The cost and availability of specialized expertise that is necessary for the public improvement.**
   The HAWC will require specialized expertise in aquatics, recreation, wellness, and community

facilities, including pool systems, water treatment, humidity and ventilation control, fitness and gymnasium spaces, accessibility, utilities, equipment coordination, code requirements, and patron safety. The Design-Builder will be selected through a competitive procurement process based on cost and qualifications, with emphasis on experience delivering comparable public facilities.

6. **Likely increases in public safety.**
   Use of the PDB model will support early and coordinated safety planning for construction of a major public facility. The Design-Builder will help plan construction access, site fencing, staging, deliveries, emergency access, and separation of construction activity from patrons, staff, visitors, and adjacent public circulation.

7. **Whether the exemption may reduce risk to the contracting agency or the public.**
   The PDB method will reduce risk to the City through continuous cost estimating and early identification of constructability issues, schedule constraints, material availability, procurement needs, site conditions, operating impacts, and cost consequences. This may reduce the risk of late redesign, bid overages, delays, and coordination issues associated with specialized aquatic and wellness systems.

8. **Whether the exemption will affect the sources of funding for the public improvement.**
   There will be no impact on funding sources as a result of this exemption. The City's funding sources for this project will remain the same whether the project is completed through a traditional design-bid-build process or through the PDB process.

9. **Whether granting the exemption will "better enable" the contracting agency to control the impact of market conditions on the costs and time necessary to complete the improvements.**
   The Design-Builder will provide continuous cost estimating throughout design and construction planning and advise on how design, scope, materials, phasing, and procurement strategies can be adjusted to meet the budget and provide best value. This integrated process will help the City respond to market conditions, including material availability, escalation, long-lead items, labor availability, and other cost pressures, while the design is still flexible and before major construction commitments are made.

10. **Whether granting the exemption will "better enable" the contracting agency to address the "size and technical complexity" of the project.**
    The HAWC includes specialized aquatic, health, wellness, recreation, fitness, and support spaces. These spaces require coordinated planning for pool and water-treatment systems, humidity and ventilation control, utilities, equipment, safety, accessibility, building systems, site development, and construction sequencing. PDB will provide and integrated team allowing input from trade partners to be incorporated during design.

11. **Whether the public improvement involves new construction or renovates or remodels an existing structure.**
    The project consists of both new and renovated spaces and systems, together with site development, utilities, parking, accessibility improvements, and related supporting work. The final scope will be confirmed during validation and design.

12. **Whether the public improvement will be occupied or unoccupied during construction.**
    The occupancy and operating conditions affecting construction will depend on the final site and

phasing plan. The Design-Builder will advise and coordinate site logistics, public access, adjacent operations, and construction activities so that safety and continuity of public services are addressed in the final design and during construction.

13. **Whether the public improvement will require a single phase or multiple phases of construction work.**
    The final phasing plan will be developed by the Design-Builder in coordination with the City. The preliminary schedule includes validation, design, permitting, construction, and close-out, with an anticipated summer 2029 opening. PDB will allow the team to optimize phasing, procurement, and sequencing while maintaining safety and minimizing impacts on surrounding operations and public access.

14. **Whether the contracting agency has, or has retained under contract, and will use, personnel, staff and lawyers that have expertise in the alternative contracting matters to assist in developing the alternative contracting method and to negotiate administer and enforce the public improvement contract.**
    The City has retained Wenaha Group as an Owner's Representative. Wenaha Group is well qualified in PDB delivery as well as aquatics facilities. In addition, the City will use experienced technical, procurement, design, operations, cost-estimating, and legal advisors as appropriate.

Conclusion of Findings of Fact

It is in the best interest of the City of Hermiston to use the Progressive Design Build (PDB) project delivery method for this project. PDB will provide an integrated design and construction team responsible for aligning scope, budget, schedule, procurement, and construction planning from the beginning of the project. The PDB method will:

- **a.** Support an expedited and coordinated schedule, which may reduce management and oversight costs;
- **b.** Reduce financial risk to the City by providing continuous cost information as design and construction planning are developed;
- **c.** Allow the City to make design, scope, and material decisions that maximize the value of the public improvement while staying within budget;
- **d.** Allow the City to select a Design-Builder with specialized aquatics, recreation, wellness, and public-facility construction experience;
- **e.** Support a construction schedule that minimizes the amount of time that the community does not have access to aquatics.
- **f.** Not encourage favoritism or diminish competition.