

EXHIBIT "A"**MT. TABOR INTERIM SECURITY AND DEFERRED
MAINTENANCE PROJECT****FACTUAL FINDINGS
PROPOSED EXEMPTION FROM COMPETITIVE
BIDDING**

PROJECT BACKGROUND: The Mt. Tabor Interim Security and Deferred Maintenance Project (hereinafter referred to as Project) implements Council direction given in Resolution No. 36237 following the Mt. Tabor Independent Review Panel (IRP) process. Interim security improvements and deferred maintenance improvements were recommended by the IRP. Most of these measures are also recommended in the Security Vulnerability Assessment completed by the Bureau of Water Works (BWW) in 2003. The project will make important improvements to critical elements of the City's water supply system at Mt. Tabor.

Under the Public Health Security and Bio-terrorism Preparedness Response Act of 2002, and Section 333-061-0064 of the Oregon Administrative Rules (OARs), all water systems serving more than 3,300 people were required to analyze the security vulnerability of their systems and have an implementation plan for improving their security. In addition to this assessment, BWW also studied the vulnerability of the water system to natural disasters. The project will reduce system vulnerability and improve site security.

As part of this project, BWW will install gate improvements and vehicle access controls, remote controlled actuators on isolation valves, new isolation valves with remote controlled actuators, a pressure reducing valve (PRV), and Gatehouse No. 5 interior remodeling for on-site security staffing. Security improvements will also include security alarm upgrades and motion sensors, additional cameras and communications equipment, improvements for remote monitoring, on-site recording, vegetation control around reservoir perimeters, signs encouraging visitors to use paths away from reservoirs, tennis court netting improvement, emergency portable lighting and improvements to secure buildings.

COMPETITION: The alternative contracting method will not limit competition or encourage favoritism in the selection process when compared to the standard "low bid" process. BWW will formally advertise and issue a Request for Qualifications (RFQ)

followed by a Request for Proposals (RFP) for a contractor for this project in accordance with established RFP procedures that will attract competition for this contract from numerous contractors in the construction community. Potential contractors will submit Statements of Qualifications to perform the work. A Selection Committee consisting of staff from BWW, Bureau of Purchases, and others from the community will evaluate the Statements of Qualifications and develop a short list of the most qualified contractors. Those selected will be asked to submit proposals. The Selection Committee will then select a contractor based on evaluation of the proposals and subsequent interviews, if necessary. The evaluation process will be based on predefined criteria of demonstrable technical qualifications and the proposed fixed fee. Subcontracted portions of the work will be contracted by the contractor through a competitive bidding process. The selection process will be completed under the guidance and direction of the Bureau of Purchases staff.

OPERATIONAL, BUDGET AND FINANCIAL DATA: The Project will enhance existing security facilities, install new security and new isolation valves, and install and allow remote control of isolation valves improving the Bureau's response time in the event of an emergency. It is imperative the existing water facilities remain operational during construction.

In addition, confidentiality, security and protection of the bureau's critical facilities during the bidding and construction process are essential. A CM/GC contract will allow BWW to have more participation and control. This contracting approach carries both the lowest risk and lowest construction and operating cost compared to any other contracting method. This process also offers the greatest flexibility, reliability, and assurance of continued water facility operations.

BWW has particular concerns about releasing documents that include the detailed plans for electronic security elements such as alarms and cameras. This alternative contracting method will allow the use of more general plans that would not reveal these details in the RFP process. The selected CM/GC can access those documents subject to the confidentiality agreement following the Bureau's assurance of integrity of the project team. Also, the City would use the provisions of House Bill 2425, which amended ORS 192.501 (23). This allows some protection from disclosure for "Records or information that would reveal or otherwise identify security measures or weaknesses...taken or recommended to be taken to protect: b) building or other property (used or owned by a public body)". This would also be another contractual commitment by the selected CM/GC.

Employing the contractor during the design phase will allow the contractor to assist in

selecting appropriate construction methods and sequencing and in developing a realistic comprehensive construction schedule before the construction phase begins. This will also allow BWB to maintain a higher level of security and restrict access to security documents including the plans and specifications of critical facilities.

The alternative contracting method will also provide value engineering and constructability reviews well before the final construction documents are completed. This should ultimately result in fewer change orders and significant savings for the City over conventional contracting.

PUBLIC BENEFITS: BWB must continue to meet its commitment to the City of Portland to provide quality potable water to its 800,000 customers and maintain water storage and fire fighting capacity during construction. Mt. Tabor is a terminal storage site for the majority of potable water provided to the City. Therefore, it is necessary that construction of the project proceed with a minimum of interruptions, delays and claims.

Mt. Tabor is listed on the National Historic Register and includes environmentally sensitive areas. It is important that the construction contractor have a thorough understanding of the requirements to protect these resources, and that design, historic, and environmental permitting are coordinated. Alternative contracting will allow the contractor proactive involvement in design to develop construction approaches and methods to minimize impacts on the park, Parks Bureau operations and park users. Such involvement in the design phase would not be possible using the traditional "low bid" contracting method.

It is likely that there will be a lower chance of disruption to the public's water supply by using the alternative contracting approach. Electing to adopt reasonable measures such as alternative contracting to meet its commitments falls well within the Bureau's fundamental mission of maintaining the highest quality and reliable water service. Finally, alternative contracting will allow construction of the proposed improvements at the lowest life-cycle cost. Alternative contracting will thus allow the public to receive the benefits of both timeliness and lowest cost.

VALUE ENGINEERING: The alternative contracting method will give the contractor an opportunity to partner with BWB design and construction staff in performing value engineering and constructability reviews. In contrast, contractor input into the project while it is being designed is not possible using the conventional "low bid" design-bid-build construction process. Early involvement will reduce overall project costs and more efficiently attain the project objectives. The contractor can review conditions while design is ongoing and thus has the opportunity for input. The contractor's construction experience and knowledge will also help identify and resolve issues prior to construction and will aid

in early identification of effective measures to minimize disruption. This partnering will likely reduce the need for change orders, claims, and delays, resulting in significant cost savings and delivery of quality facilities on time. In contrast, the "low bid" process, which does not permit significant contractor input during the design phase, would not allow the contractor to see actual conditions while design is ongoing.

SPECIALIZED EXPERTISE: Maintaining the water supply to the public while retrofitting security improvements and installing isolation valves on existing pipes is highly specialized work that requires a great deal of extraordinary care. In addition, construction will occur within a constricted work zone and must take into account Park activities.

Some of the methods to protect the water supply, the public, existing historic and environmental resources, and the Park, will not be fully addressed until the project is underway. For example, close coordination with Bureaus of Development Services and Parks, with COMNET, the City's camera and communications provider, and the City's card key provider will be required to ensure security improvements work properly.

It is imperative that the contractor has a high degree of construction and coordination experience in similar situations that is available during the design phase of this project. Expertise in construction methodology, sequencing, scheduling, and cost estimating is essential to make sure the City realizes an optimum design that remains practical and within budget. The alternative contracting method will provide the best opportunity to select not simply a qualified contractor, but the most knowledgeable contractor available with the necessary expertise for this project. In addition, the alternative contracting method provides the only realistic way to make sure that expertise is available during the project design phase. In contrast, the conventional "low bid" method does not permit the City to use the contractor's expertise to help design the project nor does it permit the City to exercise judgment about who may be the most qualified contractor to perform this work. Therefore, specialized expertise on this project requires use of the alternative contracting method to maximize the project's success.

MARKET CONDITIONS: The alternative contracting method reaches the same or greater market of construction contractors as the conventional bidding process would. The specialized skills and major components of work necessary for the Mt. Tabor Interim Security and Deferred Maintenance Project reaches the state and national market place. Competitive contracting to this market will be obtained during the solicitation for qualifications and proposals. Other key elements of work for the project that are not completed by the selected contractor will be subcontracted out. A large portion of this work will be subcontracted out to the local market by the CM/GC, using traditional

competitive bidding methods. This will ensure both competition and highly qualified subcontractors. The alternative contracting method has the added benefit of allowing the selected contractor to solicit bids for portions of work while other portions are under construction or still in design. This allows the contractor extra time to coordinate construction activities between its various resources to minimize construction risks and delays. The contractor will be able to prepare material and equipment submittals early and thus issue purchase orders to suppliers and vendors for timely delivery. This method will also provide a lengthened opportunity to identify and reach out to qualified minority, women, and emerging small businesses that may otherwise not have an opportunity to participate in the project. Overall, the alternative contracting method provides the best assurance that the most qualified and cost effective subcontractors, suppliers, and vendors will be available to meet the demanding schedule at minimum cost.

TECHNICAL COMPLEXITY: Several elements of this project require specialized expertise, as described above. Therefore many of the same reasons that support use of an alternative contracting process that were described in that section are equally applicable because of the technical complexity of this project.

In addition, the complexity of the elements of work requires the contractor to understand and be able to manage all aspects of work. The alternative contracting method permits selection of the most qualified contractor to perform this work, rather than requiring the City to accept a contractor based on the lowest bid, which may not have been submitted by the most qualified contractor. Nonetheless, selection of the most qualified contractor is likely to yield substantial cost savings because the contractor's additional expertise will likely identify problems or solutions during the design phase that a less qualified contractor would not.

The project is technically complex because the contractor must provide coordination for essential issues such as maintaining the existing water supply, the system security and the ongoing protection of historic and environmental resources, all while minimizing impacts to the park and park users. It is also technically complex because security devices must be installed appropriately and in a manner consistent with the listing of the site as a historic landmark.

In addition to protecting the water, the environment and historic features during construction, the project requires establishment of a construction phasing plan; a park circulation plan, dewatering plan; erosion control plan; traffic control plan; health and safety plan; and a sheeting and shoring plan, all prior to starting any on-site work. Some of these plans will require close coordination with the public and other City Bureaus.

The conventional "low bid" process, based strictly on the initial price, will not necessarily produce the contractor best able to handle the technical complexity of this process and thus may well cause the City additional costs by the time the project is complete. This is less likely to happen if the most qualified contractor is selected through an alternative contracting method and participates in the design process.

PUBLIC SAFETY: BWW must deliver water to its customers and have water available for emergencies twenty-four hours a day three hundred and sixty five days a year notwithstanding whatever construction activities are incurring on site. The construction activities cannot interfere with BWW's mission of providing high quality water that meets all regulatory standards.

The CM/GC process enables the selected contractor to provide input during the design process, enables it to establish a safety plan and a more coordinated construction phasing plan. Therefore, this process is more likely than the low bid process to assist the Bureau in meeting the demands for water quality, reliability and system security. This will result in early implementation of health and safety measures to protect the public, City employees, construction workers and the water system throughout the project.

In order for the proposed security improvements to be effective, they must be installed in a manner that ensures protection of the design information about the nature of alarms and related features and location of critical water facilities. In a low-bid process, detailed plans must be widely distributed and are available to anyone requesting copies of the bid documents without screening. Under the CM/GC process it is possible to distribute more general plans and then require confidentiality before detailed plans are shared. This makes it easier for the Bureau to protect security information, which is especially important in work in the area of electronic security, including alarms and passwords. Since the CM/GC process is designed to select a highly qualified contractor, it is likely that this process will maximize public safety and protection of critical information.

FUNDING SOURCES: BWW will fund the project out of the Bureau's Capital Improvement Program. Under Resolution 36237, the construction budget is estimated to be \$5.6 million.

EXHIBIT "B"**WASHINGTON PARK INTERIM SECURITY AND
DEFERRED MAINTENANCE PROJECT****FACTUAL FINDINGS
PROPOSED EXEMPTION FROM COMPETITIVE
BIDDING**

PROJECT BACKGROUND: The Washington Park Interim Security and Deferred Maintenance Project (hereinafter referred to as Project) implements Council direction given in Resolution No. 36237 following the Mt. Tabor Independent Review Panel (IRP) process. Work planned at Washington Park under Resolution No. 36237 reflects a level of security improvements and deferred maintenance similar to what was proposed for Mt. Tabor Reservoirs during the IRP process. Most of these measures are also recommended in the Security Vulnerability Assessment completed by the Bureau of Water Works (BWW) in 2003. The project will make important improvements to critical elements of the City's water supply system at Washington Park.

Under the Public Health Security and Bio-terrorism Preparedness Response Act of 2002, and Section 333-061-0064 of the Oregon Administrative Rules (OARs), all water systems serving more than 3,300 people were required to analyze the security vulnerability of their systems and have an implementation plan for improving their security. In addition to this assessment, BWW also studied the vulnerability of the water system to natural disasters. The project will reduce system vulnerability and improve site security.

As part of this project, BWW will install gate improvements and vehicle access controls, remote controlled actuators on isolation valves and new isolation valves with remote controlled actuators. Security improvements will also include security alarm upgrades, motion sensors, additional cameras and communications equipment, improvements for remote monitoring and on-site recording, vegetation control around reservoir perimeters, signs encouraging visitors to use paths away from reservoirs, emergency portable lighting and improvements to secure buildings.

COMPETITION: The alternative contracting method will not limit competition or encourage favoritism in the selection process when compared to the standard "low bid" process. BWW will formally advertise and issue a Request for Qualifications (RFQ) followed by a Request for Proposals (RFP) for a contractor for this project in accordance with established RFP procedures that will attract competition for this contract from

numerous contractors in the construction community. Potential contractors will submit Statements of Qualifications to perform the work. A Selection Committee consisting of staff from BWW, Bureau of Purchases, and others from the community will evaluate the Statements of Qualifications and develop a short list of the most qualified contractors. Those selected will be asked to submit proposals. The Selection Committee will then select a contractor based on evaluation of the proposals and subsequent interviews, if necessary. The evaluation process will be based on predefined criteria of demonstrable technical qualifications and the proposed fixed fee. Subcontracted portions of the work will be contracted by the contractor through a competitive bidding process. The selection process will be completed under the guidance and direction of the Bureau of Purchases staff.

OPERATIONAL, BUDGET AND FINANCIAL DATA: The Project will enhance existing security facilities, install new security and new isolation valves, and install and allow remote control of isolation valves improving the Bureau's response time in the event of an emergency. It is imperative the existing water facilities remain operational during construction.

In addition, confidentiality, security and protection of the bureau's critical facilities during the bidding and construction process are essential. A CM/GC contract will allow BWW to have more participation and control. This contracting method carries both the lowest risk and lowest construction and operating cost compared to any other contracting method. This method also offers the greatest flexibility, reliability, and assurance of continued water facility operations.

BWW has particular concerns about releasing documents that include the detailed plans for electronic security elements such as alarms and cameras. This alternative contracting method will allow the use of more general plans that would not reveal these details in the RFP process. The selected CM/GC can access those documents subject to the confidentiality agreement following the Bureau's assurance of integrity of the project team. Also, the City would use the provisions of House Bill 2425, which amended ORS 192.501 (23). This allows some protection from disclosure for "Records or information that would reveal or otherwise identify security measures or weaknesses...taken or recommended to be taken to protect: b) building or other property (used or owned by a public body)". This would also be another contractual commitment by the selected CM/GC.

Employing the contractor during the design phase will allow the contractor to assist in selecting appropriate construction methods and sequencing and in developing a realistic comprehensive construction schedule before the construction phase begins. This will also allow BWW to maintain a higher level of security and restrict access to security

documents including the plans and specifications of critical facilities.

The alternative contracting method will also provide value engineering and constructability reviews well before the final construction documents are completed. This should ultimately result in fewer change orders and significant savings for the City over conventional contracting.

PUBLIC BENEFITS: BWW must continue to meet its commitment to the City of Portland to provide quality potable water to its 800,000 customers and maintain water storage and fire fighting capacity during construction. Washington Park is a terminal storage site for the majority of potable water provided to the City west of the Willamette River. Therefore, it is necessary that construction of the project proceed with a minimum of interruptions, delays and claims.

Portions of Washington Park are listed on the National Historic Register and include environmentally sensitive areas. It is important that the construction contractor have a thorough understanding of the requirements to protect these resources, and that design, historic, and environmental permitting are coordinated. Alternative contracting will allow the contractor proactive involvement in design to develop construction approaches and methods to minimize impacts on the park, Parks Bureau operations and park users. Such involvement in the design phase would not be possible using the traditional “low bid” contracting method.

It is likely that there will be a lower chance of disruption to the public’s water supply by using the alternative contracting approach. Electing to adopt reasonable measures such as alternative contracting to meet its commitments falls well within the Bureau’s fundamental mission of maintaining the highest quality and reliable water service. Finally, alternative contracting will allow construction of the proposed improvements at the lowest life-cycle cost. Alternative contracting will thus allow the public to receive the benefits of both timeliness and lowest cost.

VALUE ENGINEERING: The alternative contracting method will give the contractor an opportunity to partner with BWW design and construction staff in performing value engineering and constructability reviews. In contrast, contractor input into the project while it is being designed is not possible using the conventional “low bid” design-bid-build construction process. Early involvement will reduce overall project costs and more efficiently attain the project objectives. The contractor can review conditions while design is ongoing and thus has the opportunity for input. The contractor’s construction experience and knowledge will also help identify and resolve issues prior to construction and will aid in early identification of effective measures to minimize disruption. This partnering will likely reduce the need for change orders, claims, and delays, resulting in

significant cost savings and delivery of quality facilities on time. In contrast, the “low bid” process, which does not permit significant contractor input during the design phase, would not allow the contractor to see actual conditions while design is ongoing.

SPECIALIZED EXPERTISE: Maintaining the water supply to the public while retrofitting security improvements and installing isolation valves on existing pipes is highly specialized work that requires a great deal of extraordinary care. In addition, construction will occur within a constricted work zone and must take into account Park activities.

Some of the methods to protect the water supply, the public, existing historic and environmental resources, and the Park, will not be fully addressed until the project is underway. For example, close coordination with Bureaus of Development Services and Parks, with COMNET, the City’s camera and communications provider, and the City’s card key provider will be required to ensure security improvements work properly.

It is imperative that the contractor has a high degree of construction and coordination experience in similar situations that is available during the design phase of this project. Expertise in construction methodology, sequencing, scheduling, and cost estimating is essential to make sure the City realizes an optimum design that remains practical and within budget. The alternative contracting method will provide the best opportunity to select not simply a qualified contractor, but the most knowledgeable contractor available with the necessary expertise for this project. In addition, the alternative contracting method provides the only realistic way to make sure that expertise is available during the project design phase. In contrast, the conventional “low bid” method does not permit the City to use the contractor’s expertise to help design the project nor does it permit the City to exercise judgment about who may be the most qualified contractor to perform this work. Therefore, specialized expertise on this project requires use of the alternative contracting method to maximize the project’s success.

MARKET CONDITIONS: The alternative contracting method reaches the same or greater market of construction contractors as the conventional bidding process would. The specialized skills and major components of work necessary for the Washington Park Interim Security and Deferred Maintenance Project reaches the state and national market place. Competitive contracting to this market will be obtained during the solicitation for qualifications and proposals. Other key elements of work for the project that are not completed by the selected contractor will be subcontracted out. A large portion of this work will be subcontracted out to the local market by the CM/GC, using traditional competitive bidding methods. This will ensure both competition and highly qualified subcontractors.

The alternative contracting method has the added benefit of allowing the selected contractor to solicit bids for portions of work while other portions are under construction or still in design. This method allows the contractor extra time to coordinate construction activities between its various resources to minimize construction risks and delays. The contractor will be able to prepare material and equipment submittals early and thus issue purchase orders to suppliers and vendors for timely delivery. This method will also provide a lengthened opportunity to identify and reach out to qualified minority, women, and emerging small businesses that may otherwise not have an opportunity to participate in the project. Overall, the alternative contracting method provides the best assurance that the most qualified and cost effective subcontractors, suppliers, and vendors will be available to meet the demanding schedule at minimum cost.

TECHNICAL COMPLEXITY: Several elements of this project require specialized expertise, as described above. Therefore many of the same reasons that support use of an alternative contracting method that were described in that section are equally applicable because of the technical complexity of this project.

In addition, the complexity of the elements of work requires the contractor to understand and be able to manage all aspects of work. The alternative contracting method permits selection of the most qualified contractor to perform this work, rather than requiring the City to accept a contractor based on the lowest bid, which may not have been submitted by the most qualified contractor. Nonetheless, selection of the most qualified contractor is likely to yield substantial cost savings because the contractor's additional expertise will likely identify problems or solutions during the design phase that a less qualified contractor would not.

The project is technically complex because the contractor must provide coordination for essential issues such as maintaining the existing water supply, the system security and the ongoing protection of historic and environmental resources, all while minimizing impacts to the park and park users. It is also technically complex because security devices must be installed appropriately and in a manner consistent with the listing of the site as a historic landmark.

In addition to protecting the water, the environment and historic features during construction, the project requires establishment of a construction phasing plan; a park circulation plan, dewatering plan; erosion control plan; traffic control plan; health and safety plan; and a sheeting and shoring plan, all prior to starting any on-site work. Some of these plans will require close coordination with the public and other City Bureaus.

The conventional "low bid" process, based strictly on the initial price, will not

necessarily produce the contractor best able to handle the technical complexity of this process and thus may well cause the City additional costs by the time the project is complete. This is less likely to happen if the most qualified contractor is selected through an alternative contracting method and participates in the design process.

PUBLIC SAFETY: BWW must deliver water to its customers and have water available for emergencies twenty-four hours a day three hundred and sixty five days a year notwithstanding whatever construction activities are incurring on site. The construction activities cannot interfere with BWW's mission of providing high quality water that meets all regulatory standards.

The CM/GC process enables the selected contractor to provide input during the design process, enables it to establish a safety plan and a more coordinated construction phasing plan. Therefore, this process is more likely than the low bid process to assist the Bureau in meeting the demands for water quality, reliability and system security. This will result in early implementation of health and safety measures to protect the public, City employees, construction workers and the water system throughout the project.

In order for the proposed security improvements to be effective, they must be installed in a manner that ensures protection of the design information about the nature of alarms and related features and location of critical water facilities. In a low-bid process, detailed plans must be widely distributed. Under the CM/GC process it is possible to distribute more general plans and then require confidentiality before detailed plans are shared. This makes it easier for the Bureau to protect security information, which is especially important in work in the area of electronic security, including alarms and passwords. Since the CM/GC process is designed to select a highly qualified contractor, it is likely that this process will maximize public safety and protection of critical information.

FUNDING SOURCES: BWW will fund the project out of the Bureau's Capital Improvement Program. Under Resolution 36237, the construction budget is estimated to be \$1.8 million.