EXHIBIT A

PORTLAND OPEN SPACE SEQUENCE RESTORATION PROJECT

FACTUAL FINDINGS FOR PROPOSED EXEMPTION FROM COMPETITIVE BIDDING

The Portland Bureau of Parks and Recreation ("PP&R") and the City of Portland Procurement Services ("Procurement Services") recommend that the Portland City Council ("Council") approve the following factual findings, including the Additional Findings (as hereinafter defined) (collectively, the "Findings") to exempt the Portland Open Space Sequence Project (the "Project" or the "Sequence") from the competitive bidding requirements of ORS Chapter 279C and to approve procurement using the Construction Manager/General Contractor ("CM/GC") as the alternative contracting method for the selection of a Construction Manager/General Contractor ("Contractor") for the Project. Capitalized terms used herein have the meaning ascribed to them in the Ordinance.

I. BACKGROUND

Over fifty years ago, the Portland Development Commission ("PDC") took the bold step of redeveloping a 55-block swath of the city as its first urban renewal project. And in what would become a tradition of making public space an intrinsic part of modern Portland's urban fabric, the PDC set aside three full blocks and a series of adjoining streets for parks and garden-lined pedestrian walks. And to design the ensemble, the PDC hired one of the most visionary landscape architecture firms of the 20th century: Lawrence Halprin and Associates.

The Source Fountain, Lovejoy Fountain, Pettygrove Park, Forecourt Fountain (later named Ira Keller Fountain), and the adjacent pedestrian malls—collectively dubbed by Halprin as the Portland Open Space Sequence—changed the history of American urban space, pioneering a path from passive parks and squares to more dynamic, participatory mergings of parks and art. They can be seen as precedents for subsequent Halprin sequences such as the Haas Promenade in Jerusalem and the Roosevelt Memorial in Washington, D.C. And as the first new downtown public space in Portland in decades, they inspired two generations of urban park building, from Tom McCall Waterfront Park and Pioneer Courthouse Square to Jamison Square and Director Park.

However, in the four and a half decades since the Portland Open Space Sequence's completion in 1970, simple aging, along with deferred maintenance due to City budgeting challenges, have left the plazas and fountains in dire need of care and restoration.

Formed in 2001, the Halprin Landscape Conservancy ("the Conservancy") is a non-profit organization under Sections 501 (c)(3) of the Internal Revenue Code. The Conservancy's mission is to honor and preserve the Sequence by increasing awareness of the Sequence as an important city and national cultural resource; improving the Sequence according to the original vision of Lawrence Halprin; and assuring the Sequence's upkeep at the level of a residential garden. Since its formation, the Conservancy has worked to implement the first tree-trimming program for Ira Keller Fountain (formerly known as the Forecourt Fountain) and Pettygrove Park. The Conservancy co-organized a

public celebration of the Sequence in 2009 and funded the publication of *Where the Revolution Began,* a monograph describing the story of how the Sequence came to be. The Conservancy worked with the Portland Bureau of Transportation ("PBOT") and surrounding property owners in 2010-2011 to develop new lighting that improved the illumination of the plazas and surrounding paths, and also better respects Halprin's original design. In 2011, the Conservancy received a pledge to make a lead gift of $250,000 to be used specifically for the comprehensive restoration of Pettygrove Park. Since then, in addition to approximately $90,000 that donors have already contributed to the Conservancy, a private donor has agreed to be assessed over $250,000 through a voluntary LID. Private donors continue to participate in the Adopt-a-Block pilot program of the Conservancy by contributing substantial services toward the upkeep and betterment of Pettygrove Park.

The City's Parks, Maintenance, Transportation, and Water Bureaus all have had responsibility for the operation and maintenance of various elements of the Sequence. Over time, the City has not been able to keep up with the maintenance needs of the Sequence. The City recognized the international significance of the Sequence and wanted to seek additional support through charitable contributions and participation by the community. The City recognized the contributions of the Conservancy in support of these goals and entered into Agreement No. 30002273 in 2011 to formalize its relationship with the Conservancy. The agreement was amended most recently in May 2015 to clarify each party's responsibilities in the development of the upcoming restoration project.

The Conservancy submitted a nomination to the National Parks Service, and the Sequence was designated as a National Historic Registry District on the National Register of Historic Places in March 2013. The Conservancy is pursuing a National Historic Landmark designation at the National Park Service for the Sequence which will recognize the international significance of the Sequence and its architects.

The Conservancy and the City have been in discussions about a voluntary Local Improvement District ("LID") as a possible funding mechanism for the restoration of the Sequence since August of 2012.

In order to meet expectations of the voluntary LID contributors, the project needs to ensure construction service delivery in a manner that restores and preserves the design integrity of this historic Sequence to the maximum extent possible. The skill level of the Contractor needs to be extraordinary, and the end product needs to be excellent quality construction. Efficient, expedited construction is a high priority for PP&R in its efforts to perform in a timely fashion and cause the least disruption to the public. Design is anticipated to be completed in 2017 with construction of the Project to commence in 2018. Project completion is anticipated in 2019.

Based on the Findings, using a CM/GC contracting method would support successful completion of the Project in the most efficient and cost-effective manner to achieve community, Conservancy and PP&R goals.

Ordinarily, the City is required to use competitive sealed bidding to award construction contracts for projects like the contemplated Project. Accordingly, the Project needs to be exempted from the requirements of ORS 279C that requires, among other things, the solicitation of competitive bids. City Council is the Local Contract Review Board with the authority to exempt certain public contracts from the competitive bidding requirements of ORS 279C if it is able to approve certain

findings justifying an alternative approach. With the present action, Council will exempt the Project from the competitive bidding requirements of ORS 279C and authorize the CM/GC delivery method for the Project. The factual basis to support the Findings in connection with the Project are set forth below.

II. NO FAVORITISM OR DIMINISHED COMPETITION

ORS 279C.335 (2) requires that Council make certain findings as a part of exempting public contracts or classes of public contracts from competitive bidding. ORS 279C.335 (2) (a) requires Council to make a finding that it "is unlikely that such an exemption will encourage favoritism in the awarding of public improvement contracts or substantially diminish competition for public improvement contracts." This finding is appropriate for the Project and is supported by the following facts.

The Contractor will be selected through a competitive Request for Proposals ("RFP") process under guidance and direction of Procurement Services. The RFP will be advertised in Portland's Daily Journal of Commerce and on the City's Online Procurement Center website at least three weeks in advance of the deadline set for submitting responses to the RFP. The proposals will be evaluated by a selection committee based on criteria, such as experience, technical expertise, key personnel and staffing, diversity program, safety record, and percentage profit and overhead markup. The selection committee will review and rank the written proposals, hold interviews if necessary, and recommend a Contractor for the CM/GC contract award. As a result of the competitive RFP process, the use of an alternative contracting method for the Project is unlikely to encourage favoritism in the awarding of public contracts.

The alternative process can result in even broader participation and greater competition than the traditional bidding process. All qualified general contractors and construction management firms will have an opportunity to compete. These firms include some that might not be willing to face the uncertainties and potential financial risks associated with bidding and contracting for construction under a traditional design-bid-build competitive bid process. Structuring the Project under a CM/GC contract, where the Contractor is involved in the design phase, allows the selected firm to improve constructability, participate in a high level of investigative work to uncover numerous potential unknowns thereby reducing the risks of discovery and added costs and schedule delays once construction is fully underway, develop phasing and staging plans to efficiently perform the work spread over four separate park sites, and determine effective construction methods. This may make the Project more attractive to qualified firms because of the opportunity to better understand the Project prior to providing the City with a price for the Project and to reduce their risk in undertaking the Project. Therefore, competition will not be diminished, and may even be enhanced by advertising the Project using a CM/GC delivery method.

III. SUBSTANTIAL COST SAVINGS

ORS 279C.335 (2) requires that Council make certain findings as part of exempting public contracts or classes of public contracts from competitive bidding. ORS 279C.335 (2) (b) requires Council to find that "[t]he awarding of public improvement contracts under the exemption will result in substantial cost savings to the contracting agency." This finding is appropriate for the Project and is supported by the following facts.

The CM/GC contracting process affords the opportunity for the Contractor to participate during the design phases of the Project, lending its expertise, knowledge, and experience to provide feedback as to whether the Project's proposed design is feasible within the project parameters and to provide input on the impact to the public. Similarly, this allows the Contractor to make value engineering suggestions, that is, suggestions that propose alternative and less expensive ways of achieving the same result. This can result in more practical, constructible, and economic design solutions while maintaining the design and historic integrity. Participation in the design process also enables the Contractor to become more familiar with the Project features and requirements before it prepares its price for the work. This familiarity means that the Contractor may not include cost contingencies that other contractors frequently include in their bids to take account of uncertainties that are not resolvable during the brief bidding period under a traditional design-bid-build competitive bid process. This is especially true for the Project, which will have a number of unique and varied restoration features. The CM/GC contracting method allows the Contractor to understand and incorporate value-engineering ideas and to incorporate testing and exploratory techniques to identify currently uncovered infrastructure deficiencies during the design phase to reduce the overall cost of the Project and to avoid costly change orders or disputes that impact PP&R's budget for the Project.

IV. THE FACTUAL BASIS TO SUPPORT THE ADDITIONAL FINDINGS

In order to declare the exemption, Council must approve additional findings in the areas set forth below (the "Additional Findings").

A. How Many Persons Are Available to Bid

The CM/GC contracting method will result in broader participation and greater competition than the traditional bidding process. All qualified general contractors and construction management firms will have an opportunity to compete. These firms include some that might not be willing to face the uncertainties and potential financial risks associated with bidding and contracting for construction under a traditional design-bid-build competitive bid process.

B. The Construction Budget and the Projected Operating Costs for the Project

The Project will be funded by a $2,150,000 voluntary LID and $1,500,000 requested General Fund through the Fall 2016 BMP process, along with $200,000 of General Fund from a Fall 2014 BMP that was used to initiate the site investigation and design process. The anticipated hard construction costs are estimated at approximately $2.4 million with a total budget of $3,850,000 for the Project. The budget and scope of work for the Sequence's restoration was set based on the preliminary estimates of selected necessary repairs supported through initial site investigations, testing, surveys and assessments. The CM/GC construction method will provide the opportunity for careful consideration of means and methods of construction as well as cost saving measures through construction phasing and timing over the four park sites which will make the delivery of the full repair and historic restoration program more likely.

The anticipated operating costs will remain comparable or less than current levels. Using the CM/GC contracting method will allow the construction of the restored features to meet the highest possible construction standards and support a high level of expertise to successfully

complete the specialized aspects of the Project. This will ensure the delivery of a high quality Project that will be cost effective to maintain, thus keeping the anticipated operating costs for the Sequence at a manageable level while providing a high level of service to the community.

C. Public Benefits That May Result from Granting the Exemption

There are multiple public benefits in connection with exempting the Project. The CM/GC process is critical to facilitating this very specialized historic restoration Project on an expedited timeline.

During the design phase of the Project, CM/GC participation with and feedback to the Design Team will be invaluable in determining the correct method and price of performing the highly specialized repair and restoration work.

During the construction phase, the CM/GC contracting method allows coordination of the Contractor's and subcontractors' work, development of staging, phasing and transportation impact plans and back-up plans in consideration of the schedule constraints. This coordination minimizes disruption to the local residents, to the surrounding businesses and institutions, and to the adjacent pedestrian malls and street corridors that result from construction work, staging, parking, and access. The alternative contracting method also allows the City greater opportunities to achieve outreach and utilization of disadvantaged, minority-owned, women-owned, and emerging small businesses (D/M/W/ESB) to achieve equity objectives throughout the span of the Project.

The successfully completed Project through the CM/GC process will demonstrate to the public the effectiveness of voluntary LID funding mechanisms, a private entity's partnership, stewardship and restoration of historic properties, and more specifically will provide much needed restoration to the heavily used and loved Sequence that will mitigate the need for extensive, expensive and continual maintenance in the future.

D. Whether Value Engineering Techniques May Decrease the Cost of the Project

Value engineering is defined as a process by which multiple subject experts evaluate and propose the most cost effective ways to deliver a project without reducing project quality and functionality. Value engineering will be enhanced on the Project as it is on other projects where the contractor can be selected before the design is completed. In that way, the Contractor's suggestions can be incorporated into the design development stages, rather than have the proposals come after the design is already completed, which may limit the amount of change that can be accomplished to the Project and still meet schedule requirements as well as the design intent. Changes after a project is competitively bid can result in higher costs for the City. A traditional design-bid-build competitive bid process cannot take value engineering into account during the design stage because the design is usually complete before bids are received.

Having the Contractor review the design prior to the start of construction best leverages the value engineering ideas that are accepted and incorporated into the final design. It is less expensive to implement ideas during the design phase than to wait and provide a change order and potential redesign during construction.

E. The Cost and Availability of Specialized Expertise that is Necessary for the Public Improvement

Through the RFP process, the City will have an opportunity to evaluate and select the Contractor with the specialized expertise required for the Project. The cost for such specialized expertise is included in the overall Project budget. The Project involves several components that require specialized expertise to implement a high quality Project as well as to meet the Project schedule. Specifically, the Project requires skilled historic restoration of a variety of site and fountain elements, fountain systems mechanical engineering renovation, skilled concrete and masonry restoration, replacement and matching, custom fabrication of various original custom signature design components, expertise in restoring electrical systems and replacing electrical components and conduits embedded within concrete walls and fountain structures. Additionally, the Contractor must have expertise working in a complex urban environment.

The CM/GC contracting method provides the best opportunity for the City to allocate additional weight in the selection process to contractors with a high degree of specialized expertise necessary for the particular requirements of the Project.

F. Likely Increases in Public Safety

The CM/GC contracting method allows a contractor's actual safety performance on similar projects to be considered as selection criteria. It also permits the City to work closely with the Contractor during the design phase of the Project to ensure that the construction process provides appropriate safety measures, that the Contractor understands the City's safety concerns and that the Contractor will take appropriate steps to address them. Because the Sequence is in a dense urban environment with surrounding residential, institutional, and commercial neighbors, and because the Sequence's plazas are bordered by pedestrian malls and streets, it is imperative that the Contractor maintain good safety practices both within the construction work zone and on the surrounding streets and pedestrian malls when accessing the sites with construction equipment and materials.

G. Whether Granting the Exemption May Reduce Risks to the City Related to the Project

The CM/GC project delivery method fosters early coordination between designer, Contractor, and City staff which leads to a better outcome than with a traditional low-bid procurement project; challenges and issues can be anticipated and resolved earlier in the process, allowing the Project to be completed on time.

It is necessary to carefully consider the means and methods of construction and construction sequencing during design to ensure a minimum of delays, construction costs, and impacts to public. Having the Contractor involved during the design phase will provide information on constructability issues and allow development of a logical sequence for construction.

The CM/GC project delivery method will facilitate a much greater Project understanding by the contractor before construction starts, and involvement throughout the design phase in which to craft a thoughtful and comprehensive construction schedule that accommodates these challenges.

It would be challenging for even an experienced contractor to produce a plan of this quality without the lead time and project team interaction the CM/GC project delivery method provides, because traditionally the design-bid build process allows no time or opportunity for interaction with the project team or designers before the construction Notice to Proceed is issued.

By maximizing team collaboration and incorporating cost savings ideas throughout the design phase, it is likely that the City's Project management team can mitigate costly change orders and disputes. Utilization of the CM/GC project delivery method permits the contractors not only to understand the designer's intent and assumptions, but to be a part of the design process. The design-bid-build project delivery method does not allow for input on the part of the contractor during the design phase. This lack of involvement can lead to plans and specifications not as well suited to construction means and methods. This is particularly important on this Project where construction means and methods have a huge impact on Project costs, design, and historic design integrity.

The Project will be constructed in an urban area. To limit the time frame during which people, businesses and institutions are exposed to construction traffic or activity is an important scheduling goal. Using the CM/GC contracting method will allow the City to hire the Contractor during the design phase and thus enable the Contractor to develop a comprehensive construction schedule before initiating the work with input from the Project Team. The interaction between the Project Team and the Contractor during the design process makes it far more likely that the final design will take into account any potential construction problems and allow early coordination of construction phases to minimize impacts to the surrounding residents, businesses, institutions, and Sequence visitors.

The Project has numerous infrastructure components, many of which are hidden underground or within concrete fountain walls. Having the Contractor involved early will allow them to do additional and detailed testing and exploratory work to identify the causes of infrastructure failures, thus reducing the risks of discovery and added costs and schedule delays once construction is fully underway. Having the information and incorporating solutions during design will save on added costs and delays that occur when hidden infrastructure failures are uncovered during construction.

The RFP process for selecting the Contractor allows PP&R an opportunity to question the respondents to discern their expertise on contracting methods, phasing, the specific types of restoration techniques, and investigatory methods to identify specific hidden infrastructure failures. This approach also offers the greatest flexibility, risk reduction, reliability, and ease of construction. The Project budget is likely to be more stable as a result of this approach and it is less likely that there will be cost overruns.

H. Whether Granting the Exemption Will Affect the Funding Sources for the Project

The overall Project budget is $3.85 million and includes costs for Professional, Technical and Expert (PTE) services, pre-construction services, construction services, and contingency. The Project will be funded using LID funds and the City General Fund. The contingency is a percentage of the Project costs above the stated amount that the Project might be expected to exceed. As the design process progresses to final design, the confidence rating regarding the

Project cost increases and, correspondingly, the contingency percentage decreases. Maximum construction contract amounts within the fixed budget will be negotiated with the selected Contractor. Because the Guaranteed Maximum Price ("GMP") is negotiated close to final design, the CM/GC contracting method creates more financial certainty for the City. The Project budget is likely to be more stable as a result of the alternative contracting method, and it is less likely that there will be cost overruns.

The City and the Conservancy have entered into an agreement in regard to the Project. In the negotiation of the agreement, the Conservancy proposed their strong preference for a CM/GC process. The agreement lists some of the benefits of an alternative contracting method, such as CM/GC, for this unique Project, and the reasons why both parties believe it to be the most appropriate contracting method for the Project. It states the City staff will attempt to gain City Council approval to pursue a CM/GC process. While Council's approval is not guaranteed in the agreement, the Conservancy would possibly reconsider their private donations and the voluntary LID funding process if an exemption to allow a CM/GC process is not granted by Council and the Project is required to use a traditional design-bid-build competitive bid process.

I. Whether Granting the Exemption Will Better Enable the City to Control the Impact that Market Conditions May Have on the Cost of and Time Necessary to Complete the Project

The CM/GC contracting method for the Project would reach the same or greater market of construction contractors as the traditional low bid process. The RFP will require a response addressing the latest market innovations in sequencing and in construction means and methods. Selection of the Contractor will be made by a committee, that will evaluate qualifications, expertise and ability to deliver on the City's policy goals and community expectations, among other things, in addition to cost to ensure the best combination to achieve the Project objectives.

The construction industry is a volatile industry with prices fluctuating almost constantly. By designing to a GMP, having open books among the entire Project team, and establishing a high degree of trust and collaboration among the Project team, market fluctuation can be accommodated for and folded into the design of the Project. By bringing together a creative set of minds that have a deep and thorough understanding of the Project's intricacies, the design can be more nimble and the approach can be more efficient. Additionally, the means and methods can be thoroughly integrated into the design.

J. Whether Granting the Exemption Will Better Enable the City to Address the Size and Technical Complexity of the Project

Special technical complexities of the Project include historic restoration of a variety of site and fountain elements, fountain systems mechanical engineering renovation, concrete and masonry restoration, replacement, and matching, fabrication of various original custom signature design components, restoration of electrical systems and replacing electrical components and conduits embedded within concrete walls and fountain structures. Additionally, the Contractor must have the expertise working in a highly complex, urban setting. The CM/GC contracting method will allow the Contractor to proactively be involved in the design phase to help develop construction approaches and methods to maximize the quality, constructability, and historic integrity of the

restoration Project. This early involvement during the design phase will allow the Project Team and the Contractor to actively work together to find solutions to complete the Project in the most efficient manner possible with the least amount of disruption to the public.

K. Whether the Project Involves New Construction or Renovates an Existing Structure

The Project is for the restoration of existing historic facilities/structures.

L. Whether the Project Will Be Occupied or Unoccupied During Construction

The Project will likely not be open to the public during construction, though access past the project sites on the adjacent streets and on some or all of the pedestrian malls will be necessary.

M. Whether the Project Will Require a Single Phase or Multiple Phases of Construction Work to Address Specific Project Conditions

An important goal of the Project is to complete the construction in an expeditious and efficient manner. The current Project is anticipated to be completed in a single continuous phase, but because work will occur at four different sites, the Contractor will provide valuable recommendations for sequencing for the least disruption to the public and most efficient and cost effective use of resources and subcontractors. Incorporating cost saving ideas in the design phase and avoiding hurried plans or adaptations during the construction phase allows PP&R to avoid costly change orders or disputes that impact the schedule or budget. It is necessary to carefully consider the means and methods of construction and possible sequencing options during the design phase of the Project to ensure a minimum of delays and costs during construction.

N. Whether the City Has or Will Retain Personnel, Consultants and Legal Counsel that Have Necessary Expertise and Substantial Experience in Alternative Contracting Methods to Assist in Developing the Alternative Contracting Method and to Help Negotiate, Administer and Enforce the Terms of the Project Contract

City personnel have the expertise and experience necessary to effectively implement the CM/GC contracting method and to negotiate, administer and enforce the terms of the resultant construction contract for the Project.