EXHIBIT A

FACTUAL FINDINGS
PROPOSED EXEMPTION FROM COMPETITIVE BIDDING

DAM NO. 1 SPILLWAY GATES REPLACEMENT PROJECT

I. EXEMPTION FROM COMPETITIVE BIDDING UNDER OREGON STATUTE

Oregon law requires all public improvement projects to be procured by a competitive low bid method, unless an exemption is granted by the State of Oregon or the Local Contract Review Board for public agencies other than the state. In order to obtain an exemption, ORS 279C.335 requires the Portland City Council, acting as the Local Contract Review Board, to approve two findings submitted by the City staff:

1. It is unlikely that the exemption will encourage favoritism in the awarding of public improvement contracts or substantially diminish competition for the public improvement; and,

2. The awarding of the public improvement contract under the exemption will more likely result in substantial cost savings for the City of Portland (City).

As used in ORS 279C.335, 279C.345, 279C.350, and PCC 5.34.830 “findings” means the justification for a contracting agency conclusion that includes, but is not limited to, information regarding:

1. How many persons are available to bid;
2. The construction budget and the projected operating costs for the completed Public Improvement;
3. Public benefits that may result from granting the exemption;
4. Whether Value engineering techniques may decrease the cost of the Public Improvement;
5. Cost and availability of Specialized expertise required for the Public Improvement;
6. Any likely increases in public safety;
7. Whether granting the exemption may reduce risks to the City or the public that are related to the Public Improvement
8. Whether granting the exemption will affect the sources of funding for the Public Improvement;
9. 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 Public Improvement;
10. Whether granting the exemption will better enable the City to address the size and technical complexity of the Public Improvement;
11. Whether the Public Improvement involves new construction or renovates or remodels an existing structure;
12. Whether the Public Improvement will be occupied or unoccupied during construction;

13. Whether the Public Improvement will require a single phase of construction work or multiple phases of construction work to address specific project conditions; and
14. Whether the City has, or has retained under contract, and will use City personnel, consultants and legal counsel that have necessary expertise and substantial experience in Alternative Contracting Methods to assist in developing the Alternative Contracting Methods that the City will use to award the Public Improvement contract and to help negotiate, administer and enforce the terms of the Public Improvement Contract. To the extent applicable, if a particular factor has no application whatsoever to the particular Public Improvement Contract or class of Public Improvement Contracts, the City does not need to consider that factor, and the City is not required to address the factor, other than to state why the factor has no application whatsoever to the particular Public Improvement Contract or class of Public Improvement Contracts.

II. PROJECT BACKGROUND

In 2017, the Federal Energy Regulatory Commission (FERC) along with the Portland Water Bureau completed an inspection of Dam No. 1 in the Bull Run Watershed. The inspection identified maintenance and potential deficiencies with the existing spillway gates and hoisting mechanisms. The Portland Water Bureau conducted further field investigations and specialized analysis of the existing gates and hoisting mechanisms based on current design standards. The analysis of the gates determined they do not meet all the loading conditions based on current design standards and need to be retrofitted or replaced. FERC requires the new gates and hoisting equipment be installed and functional by March 2025.

Dam No. 1 is a key feature of the water supply system, functioning to create Reservoir No. 1, which contains 35% of the watershed storage capacity. The Bull Run Watershed is a secured area approximately 35 miles east of downtown Portland operating as a non-filtered source with strict water quality mandates. The gates rest on a bridgeway over the spillway located on top of the dam directly over the reservoir. The gates are lowered in the spring to provide an additional 1.2 billion gallons reservoir capacity. This additional capacity is key for summer supply in Portland.

The FERC compliance date mandates an aggressive permitting, design, fabrication, and installation schedule. A strategic sequencing of construction tasks will be required to ensure worker safety, cost-effective operations, and ensure the Dam No. 1 Spillway Gates Project (Project) is constructed and on-line by the compliance date above. This is a technically complex project in a remote location that will require specialized equipment and an experienced contractor to assist with the design and construction.

The Portland Water Bureau studied the procurement method alternatives for this Project. Key decision points focused on whether a procurement method would provide the best likelihood of meeting the schedule, allowing for project integration with supply operations, and maximum protection of water quality. The analysis indicated that the best method for successful project completion was the Construction Manager/General

Contractor (CM/GC). Use of the CM/GC alternative contracting method is most likely to minimize costs, reduce change orders, reduce risk, and reduce construction impacts.

The CM/GC contracting method includes two phases, Professional, Technical and Expert (PTE) contract for CM/GC services performed during design and then a construction contract for management and completion of construction work elements. During the PTE Contract the construction price is negotiated once final design is complete; contractor and owner agree on a Guaranteed Maximum Price (GMP) for the contract package. As the design is refined, the CM/GC provides input to the design to reduce costs, minimize scheduling risk, ensure constructability, and improve safety. As the Project design develops, the CM/GC can plan and sequence technical subcontractors and provide the City with a GMP for the work. Once a GMP has been negotiated, a construction contract is executed. Subcontractors are hired by the CM/GC using a competitive bidding process consistent with the City's Procurement requirements.

The Portland Water Bureau anticipates that the use of the CM/GC contracting method will support successful completion of the Project in the most cost-effective manner by providing the following benefits:

- Greater certainty of meeting the FERC compliance date;
- Reduction of risk to the drinking water during construction
- Evaluation of total Project costs based on Project design;
- Guarantee of the maximum price at final design, absent changes in the scope of work and/or unforeseen site conditions;
- Access to technical expertise during the design and in the planning for sequencing construction phases;
- Experienced management of multiple technical subcontractors;
- Team building and partnering opportunities with Portland Water Bureau project management staff and the design teams;
- Coordinated responsibility for worker safety;
- CM/GC assumption of some risk (i.e., cost, schedule, safety, maintaining water supply and service, and constructability);
- Reduction of risk of construction delays and unanticipated costs for the Portland Water Bureau;
- Accelerated schedule with early solicitation of subcontract bid packages and early fabrication start, concurrent with final design;
- Selection of a contractor based on qualifications;
- Development of a subcontracting plan consistent with current City of Portland Social equity in contracting programs;
- Greater emphasis on contractor quality control; and,
- Use of contractors with experience constructing and commissioning complex dam projects.

III. IT IS UNLIKELY THE EXEMPTION WILL ENCOURAGE FAVORITISM OR SUBSTANTIALLY DIMINISH COMPETION

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 the exemption, "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. The RFP for a CM/GC will be advertised in Portland's Daily Journal of Commerce and on the City's Online Procurement Center 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, schedule performance, and percentage profit and overhead markup. The selection committee will review and score 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 that includes the Contractor in the design phase allows the selected firm to improve constructability, develop phasing and staging plans to efficiently perform the work with minimal disruption to operations, 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 Project price and to reduce their risk in undertaking the Project.

Finding: *Competition will not be diminished, and may even be enhanced by advertising the Project through a CM/GC process.*

IV. GRANTING THE EXEMPTION WILL LIKELY RESULT IN 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 "awarding of public improvement contracts under the exemption will result in substantial cost savings to the public contracting agency." This finding is appropriate for the Project and is supported by the following facts.

The Construction Industry Institute (CII) and Penn State University conducted a seminal study published in 1997 comparing CM/GC (called construction management at risk in the study), design-build, and design-bid-build performance on 351 building projects in the United States. The results of the study can be compared in terms of cost and schedule. Schedule was defined in both construction speed (construction only) and delivery speed (both design and construction). The projects delivered using the CM/GC method as compared to conventional Design-Bid-Build (DBB) methods on average resulted in:

- Lower as-completed unit cost;
- Faster construction speed;
- Faster total delivery (including design and construction);
- Less cost growth during construction.

The weblink to the Construction Industry Institute (CII) and Penn State University study may be found at:
http://www.engr.psu.edu/ae/cic/publications/TechReports/TR_038_Konchar_Comparison_of_US_Proj_Del_Systems.pdf

The CM/GC method benefits for this Project include opportunity for cost and time-savings through innovation. These innovations include improved Project construction staging, incremental completion of design and commencement of construction, integrated planning between designers and contractors from the beginning of the Project and reduced formal design effort because the working plans and detailed specifications do not have to be of a biddable level of detail.

The CM/GC method of contracting fosters innovation, allows flexibility for concurrent acquisition, improves cost control and cost certainty, higher design quality, helps reduces risk, enhances collaboration, and takes advantage of the ability to acquire materials and order fabrication incrementally. It also provides incentives to the CM/GC to manage and stage the Project to optimize efficiencies in construction. These methods contribute to reduce Project duration, encourage long-term cost savings, and support meeting Project performance objectives.

The City's experience in the CM/GC method has shown the significant advantages to the qualifications-based selection for complex projects, the early collaboration between the design team and the CM/GC and the ability to manage costs through contractor input into the construction methods.

For the Dam No. 1 Slide Gates Replacement Project, the advantages and potential cost savings would result from working closely with the selected CM/GC to plan the construction staging in a manner that cost effectively supports the specialized construction necessary for this treatment facility, protects the environment, and coordinates detailed construction sequencing to maintain drinking water delivery throughout the construction period.

The Project could benefit from a CM/GC method by achieving substantial cost savings through the following:

- Real-time cost estimating;
- Controlling cash-flow schedule;
    - Earlier construction start to reduce inflation impacts on the Project budget
    - Allows early purchase of long-lead items
- Reduced overall Project duration and reductions in overhead costs.

Finding: *The CM/GC method will help to ensure the Project is completed within the proposed Project budget because, as discussed above, the CM/GC method results in a greater understanding of the Project by the CM/GC, reducing both the incentive and the factual basis for change orders. It also brings the knowledge and experience of the CM/GC onto the Project Team while there is still time to make the design more efficient relative to both the estimated cost and the staging plan. For these reasons, the CM/GC method may result in cost savings to the public compared to the DBB method.*

The CM/GC contracting method allows the Contractor to both understand and incorporate value-engineering ideas, and to participate in the acquisition of permits during the Project design phase, reducing the overall cost of the Project and avoiding costly change orders or disputes that impact the Portland Water Bureau's budget or schedule for the Project.

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. 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's 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 and schedule 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 this Project, which requires the new facilities to be constructed and integrated with existing facilities while keeping water supply unaffected.

Finally, the CM/GC contracting process allows the Contractor to participate in the Project permitting processes. By including the Contractor's means and methods with the permit applications, the City will avoid delays and increased costs associated with permit acquisition. It will also avoid permit conditions that require prescriptive means and methods specifications for a competitively bid contract that can lead to change orders and disputes when the low bidder proposes alternate means and methods of construction.

V. GRANTING THE EXEMPTION SUPPORTS OTHER SUBSTANTIAL BENEFITS

A. HOW MANY PERSONS ARE AVAILABLE TO BID

This is a complex project in a remote area with significant regulations. There will be a relatively small pool of firms that are skilled enough to perform this work. By using the CM/GC contracting method, the Portland Water Bureau will be able to complete more extensive outreach to these firms assuring maximum 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.

Finding: *There are several qualified firms in the Portland area and beyond that will be motivated to bid on this Project.*

B. OPERATIONAL, BUDGET, AND FINANCIAL REQUIREMENTS

The Project will construct and install the three new slide gates on top of Dam No 1. During construction activities, the City will need to maintain operations and supply water to customers. Using the CM/GC method will allow the City to hire the CM/GC during the design phase of the Project and allow the CM/GC Contractor to develop a comprehensive construction schedule and sequencing before initiating the work with input from the Project team. The interaction between the Project team and the CM/GC during the design process means it is more likely that the final design will take into account potential construction challenges and allow early coordination with existing facilities and processes.

It is necessary to carefully consider the means and methods of construction during design stages to ensure minimum delays and additional costs during construction. Adding the CM/GC to the design team between the 30% and 60% design phase will provide information on constructability and create a logical sequence for construction. The CM/GC method fosters coordination and efficiency in design and construction.

Confidentiality, security, and protection of the Portland Water Bureau's critical facilities during the design and construction process are essential. The Portland Water Bureau does not want to release documents that include the detailed plans for existing and proposed facilities. The City would use the provisions of Oregon Revised Statute (ORS) 192.345 (23) which 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." The CM/GC contracting method would allow distribution of the construction documents to a controlled audience whereas in the DBB process, anyone anywhere in the world can register as a vendor and request copies of the construction documents.

Coordination between contractors and Portland Water Bureau operations and permitting

agencies will be complicated and require a high level of contracting sophistication to keep operations running smoothly and minimize disruptions to customers. The Project requires connection to existing conduits that provide water service to more than 950,000 customers, which is critically important. The CM/GC method will allow the Portland Water Bureau to have more participation and control than the traditional DBB method. This construction contracting method carries the lowest risk and offers the greatest flexibility, risk reduction, reliability, and ease of construction.

The CM/GC method will facilitate a much greater Project understanding by the CM/GC before construction starts, and a longer lead time in which to craft a thoughtful and comprehensive construction schedule that accommodates operational challenges. It is unlikely that even an experienced contractor would have the time to produce a plan of this quality without the lead time and team interaction the CM/GC method provides because traditionally the DBB process allows no time or opportunity for interaction with the Portland Water Bureau or design contractors before the construction Notice to Proceed (NTP) is issued. In addition, the RFP process for selecting the CM/GC will give the Portland Water Bureau greater opportunity to question the respondents to discern the best responses to these issues, and to check references.

By minimizing surprises, incorporating cost savings ideas in the original design phase, and avoiding hurried plans or adaptations to the construction plan, it is likely that the Portland Water Bureau can avoid costly change orders or disputes that impact the schedule or budget. In contrast, the DBB method of construction does not allow for input on the part of the contractor during the design phase. The DBB method also can produce cost overruns if a critical portion of the plans are unclear, may require redesign and sometimes entitle the contractor to additional compensation. Utilization of the CM/GC method permits the contractor to understand the designer's intent and the plans because of close cooperation with the designer and thus reduces this risk.

In addition, a typical CM/GC project produces what is known as a "Guaranteed Maximum Price." Although the contract price can still change (for example, if the scope of work changes or unforeseen site conditions are discovered) usually such contracts provide a greater price certainty for the City.

As a result, the use of a CM/GC method on this type of Project is more likely to meet the Portland Water Bureau's budget, avoid unnecessary cost overruns and disputes and provides greater financial certainty for the City.

Finding: *A competitive selection of a CM/GC allows the City to minimize disruptions to customers and maintain operations during construction, as well as addressing constructability during design by having the CM/GC provide expertise on contracting methods compatible with their operations. 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 project overruns. In comparison to the DBB method, the CM/GC method is less likely to cause budget overruns.*

C. PUBLIC BENEFITS

The Portland Water Bureau must meet its commitment to the City of Portland to provide quality potable water to its more than 950,000 customers by continuing to serve the Bull Run supply during construction. Construction of the new spillway gates is critical to providing additional water supply storage in Reservoir 1 and providing the Portland Water Bureau the ability to store colder water in Reservoir 1 to meet downstream summer Habitat Conservation Plan temperature compliance requirements. Therefore, it is necessary that construction of the project proceed smoothly and with a minimum of interruptions, delays, and claims.

It is likely that there will be a lower chance of disruption to the schedule, cost overruns, and delays by using the CM/GC contracting approach. Electing to adopt reasonable measures such as alternative contracting to meet commitments and to decrease the risk of total construction cost overruns, falls well within the Portland Water Bureau's fundamental mission of maintaining the livability of the City.

The CM/GC method may allow construction of the current facility plan at a lower life-cycle cost of any other technically feasible procurement alternative identified to date, including a DBB method. A CM/GC contracting approach will thus allow the public to receive the benefits of both timeliness and best value and minimizes risk to the City by awarding the contract to the most qualified contractor.

Using a CM/GC method provides more opportunities during design and construction to address constructability, modify construction means and methods, and work in partnership with the City. This construction approach provides the following public benefits:

- Minimizing disruptions to the environment;
- Protecting the public water supply;
- Success in Federal and State Historical Preservation Office relations;
- Ensuring access to key operational facilities is maintained; and,
- Selecting a contractor based on qualifications resulting in overall value to the Project.

Finding: *The competitive Request for Proposal (RFP) used in the CM/GC method of procurement maximizes public benefit by ensuring the selection of a contractor who is well qualified to effectively minimize the public impacts caused by the work. In contrast, the DBB method, which does not permit the contractor to become involved in the Project until after the design is complete, would be less likely to achieve these goals.*

D. VALUE ENGINEERING

The CM/GC method will give the CM/GC an opportunity to partner with the Portland Water Bureau's Project Team, Design Contractor, and Portland Water Bureau Operations in performing value engineering (VE) and constructability reviews during design. Value engineering is a process in which Project stakeholders compare the total

Project cost to Project performance and evaluate the benefit-to-cost ratio. With a CM/GC method of procurement, constructability is continuously evaluated, and final costs are determined early in the process (that is, prior to completion of the final design). The early and realistic determination of costs allows the Portland Water Bureau to adjust design and construction methods based on real costs. In contrast, conventional DBB does not allow construction contractor input while the project is being designed

Early involvement of the CM/GC will more efficiently attain the Project objectives. The CM/GC can see conditions while design is ongoing and provide input. The CM/GC's construction experience and knowledge will 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 cost savings and delivery of quality facilities on time.

Having the CM/GC 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 design than to wait and provide a change order and potential redesign during construction.

Finding: *Hiring a contractor through the CM/GC method provides for feedback from the construction contractor during design and participation in the design and development of the Project helps the Project to be completed within the estimated cost. In contrast, the DBB process does not permit contractor involvement during the design phase of the Project and limits value engineering possibilities.*

E. SPECIALIZED EXPERTISE REQUIRED

The installation of the gates on top of Dam No. 1 will require specialized equipment and an experienced contractor in order to deliver the technically complex project within the tight project schedule while protecting the public water supply.

The CM/GC process allows the Portland Water Bureau to contract with a contractor that demonstrates the desired specialized expertise and desire to tackle this project. Utilizing a CM/GC will allow the contractor to provide valuable input during the design process. Constructability issues can be addressed preceding the actual construction activities.

The CM/GC contracting process will provide the best opportunity to select the most knowledgeable contractor with the necessary expertise for this project. An alternative contracting method, such as CM/GC provides the only realistic way to make sure that expertise is available during the project design phase. In contrast, the DBB method does not permit the Portland Water Bureau to use the contractor's expertise to help design the project. Although the DBB process, through the use of contractor prequalification, permits the City to make sure that contractors minimally qualified bid on the project, it does not permit the City to select the most qualified contractor to perform this work.

The CM/GC process is critical in allowing the CM/GC to be intensely involved in the design, value engineering, schedule, risk-reduction, and overall successful completion of this Project.

Finding: *Procurement using the CM/GC method allows the City to evaluate the qualifications of the contractors seeking contract award, including an evaluation of their expertise. In contrast, the DBB method sets a minimum threshold for qualifications and does not permit the City to evaluate contractors based on their expertise. As a result, the CM/GC method is more likely to result in hiring the best contractor for the job.*

F & G. PUBLIC SAFETY AND REDUCTION OF RISKS

The Portland Water Bureau must deliver high-quality water to its customers and provide water for emergencies 24 hours a day and 365 days a year. The construction activities cannot interfere with the bureau's mission of providing high-quality water that meets all regulatory standards.

As a public Project, it is important to build the Project with safety foremost in the contractor's approach to ensure safe working conditions for the contractor, neighbors and traveling public that could be affected by the Project.

The CM/GC method enables the selected CM/GC to provide input during the design process including establishing a safety plan and a coordinated construction phasing plan. This process is more likely than the DBB method to result in early implementation of health and safety measures to protect the public water source, City staff, construction workers, and the public throughout the Project. These health and safety measures will ensure that the water system continues to provide excellent water quality, reliability, and system security.

The CM/GC method will allow the City the best opportunity to provide additional weight in the selection process to proposers with successful safety records. It also enables the selected CM/GC to establish a transportation plan and to consider their means and methods through the lens of safety. The DBB method, in contrast, may not result in the selection of the most qualified contractor. See Paragraph C, Public Benefits, for more discussion of the process.

In the traditional DBB method, there is little allowance for change during construction, and the City assumes the risk for schedule delays, unanticipated costs, and claims. The CM/GC method allows the CM/GC to provide input during design which transfers some risk (i.e., cost, schedule, safety, maintaining water supply and service, and constructability) to the CM/GC. Early input into the design allows the CM/GC to begin planning the construction schedule and cost estimates, and begin early identification of risks to the schedule, cost, and operations. This process allows the CM/GC to advise on these risks and develop mitigation options that reduce the risk of construction delays and unanticipated costs to the Portland Water Bureau.

Finding: *The CM/GC method allows actual safety, cost, and schedule performance on similar projects to be considered as selection criteria. It also permits the City to work*

closely with the CM/GC during the design phase of the Project to identify and mitigate safety concerns and risks to schedule, cost, and operations. In contrast, the DBB method does not permit the City to discuss these issues with a contractor until after the design is completed and does not permit the close interaction with the contractor to better understand the project and the City's concerns.

H. FUNDING SOURCES

The total cost for the CM/GC contract is estimated at $2,650,000 and includes pre-construction services and construction.

The total project cost includes a contingency which is a percentage of Project costs above the stated amount that the Project may exceed. As the Project design progresses through design, the confidence rating goes up (improves) and the contingency percentage may go down. This means that, as the design progresses, the estimation of how much the Project will cost may vary from the budgeted amount, and in theory, may be reduced. Maximum construction contract amounts within the fixed budget will be negotiated with the selected CM/GC. The CM/GC method permits more financial certainty where the DBB method does not present the same degree of assurance.

Finding: *The Project is funded using City of Portland Water Funds. The Project is funded in the current fiscal budget and is expected to be included in the fiscal year budgets through 2025. While funding does not change based on use of the CM/GC method, the Project budget is likely to be more stable as a result of that process and it is less likely that there will be Project overruns. In comparison to the DBB method, the CM/GC method will provide a maximum contract amount earlier in the design process and is less likely to cause budget overruns. The DBB method is more likely to have change orders which require finding additional sources of funds.*

I. MARKET CONDITIONS

A CM/GC method of procurement would reach the same or greater market of construction contractors as the DBB method. The Request for Proposal (RFP) for specialized skills, size of the Project, and major components of work necessary for the Project could reach the state and national marketplace. Competitive contracting to this market will be obtained during the solicitation for qualifications and proposals. Utilizing the CM/GC method of procurement ensures that the Project design and construction sequencing will employ all market innovations in means and methods. A CM/GC would be selected using the City's alternative procurement process that evaluates qualifications and proposals to ensure the best combination of technical expertise at a cost-effective price.

The CM/GC method has the added benefit of allowing the selected CM/GC to solicit competitive bids for various aspects of work (equipment, labor, etc.) as the work is ready to go out to bid and coordinate construction activities among all resources to minimize construction risks and delays. The CM/GC will be able to prepare material and equipment submittals early and issue purchase orders to suppliers and vendors during design for timely delivery. This would also provide increased opportunity to identify and

reach out to qualified Disadvantaged, Minority, Women, Emerging Small Businesses, and Service-Disabled Veteran Enterprises (D/M/W/ESB/SDVE) that may otherwise not have an opportunity to participate in the Project.

Because the City will be advertising for a CM/GC, the proposed method will reach the same number of contractors as the DBB method. Therefore, the City can take advantage of market conditions that promote competition, especially during a time when the national economy and the Oregon economy have faced a serious economic downturn. The CM/GC method provides the best assurance that the most qualified and most cost-effective subcontractors, suppliers, and vendors would be available to meet the demanding schedule at a minimum cost. Current market conditions favor the CM/GC method.

The Portland Water Bureau will issue a Request for Proposals (RFP) for a CM/GC contract for this Project in accordance with procedures that will attract competition for this contract from qualified contractors in the construction community. The RFP will be advertised in the *Daily Journal of Commerce* and will be posted on the City of Portland's eBid website. Potential contractors will submit proposals. A Selection Committee consisting of personnel from the Portland Water Bureau, and others from the community, including an Alliance of Minority Chamber provided evaluator, will evaluate the proposals and select a contractor based on the highest-scoring proposal and subsequent interviews, if necessary.

The selection process will be completed under the supervision of the City's Procurement Services. The evaluation process will be based on predefined criteria such as demonstrable technical qualifications, the proposed fixed fee for the CM/GC during construction, diversity in employment and sustainability, Project team, Project approach and understanding, and safety. Subcontracted portions of the work will be contracted by the CM/GC through a competitive bidding process. The CM/GC method will not limit competition or encourage favoritism in the selection process when compared to the standard DBB method.

The RFP will also include D/M/W/ESB/SDVE outreach requirements, which will include the City of Portland Workforce Hiring and Training Program and the Contractor Diversity and Inclusion Policy (CDIP).

Finding: *The CM/GC method uses a competitive selection process with qualifications being one of the criteria. This selection does not significantly change the pool of contractors qualified to bid on the Project but does allow the City to select the most qualified contractor for the Project. The CM/GC procurement process can start earlier, taking advantage of the current economic market. In contrast, the DBB method does not permit the contractor to get an early start on the Project. The CM/GC selection process and hiring of subcontractors uses competitive procurement. Selection of a CM/GC does not limit competition or encourage favoritism in the selection process.*

J. TECHNICAL COMPLEXITY

This is a technically complex Project because of the aggressive schedule, specialized treatment processes, and requirement to maintain existing operations throughout construction. The CM/GC method allows the City to acquire a highly qualified contractor. As a result, it is more likely that the CM/GC can resolve the technical complexities of the Project more efficiently, in part because of its qualifications and in part because it will have additional time to evaluate solutions for handling problems during the design and construction process.

It is essential that both the Design Team and CM/GC have a thorough understanding of the complex treatment processes and associated infrastructure and equipment, and the importance of maintaining existing operations as the treatment facility is placed into operation. The CM/GC method will allow the CM/GC to proactively be involved in design to help develop construction approaches and methods to place the treatment facility into operation successfully. This early involvement in the design will allow the Project team and the CM/GC to actively work together to find solutions to complete this Project while maintaining existing operations. Such involvement in the design stage would not be possible using the traditional DBB method.

The Project requires establishment of a construction phasing plan, construction mitigation plan, construction management plan, erosion and stormwater control plan, a security plan, and a health and safety plan. Some of these plans will require close coordination with the public, other City Bureaus and permitting agencies. This can be a time-consuming process. The CM/GC method allows the CM/GC additional time during the PTE services phase of the contract for this planning and permitting process, thus making it more likely that the Project can be completed to meet the FERC compliance dates.

The CM/GC would be responsible for supplying and coordinating the various subcontractors to complete the work. This technical complexity requires that the construction contractor understand and be able to manage all aspects of work. A qualified and informed contractor is imperative to managing these elements. The CM/GC method allows selection of the most qualified contractor to function as a partner in the design and construction process, rather than requiring the City to accept the contractor that submits the lowest responsive bid.

The conventional DBB method, based strictly on the initial price, does not guarantee hiring the contractor best able to handle the technical complexity of this process. Hiring a DBB contractor based strictly on submittal of the lowest bid may well cause the City additional short-term and long-term costs and risks. See Paragraph A, Operational, Budget, and Financial Requirements and Paragraph D, Specialized Expertise for more discussion of the process.

Finding: *The CM/GC method ensures hiring a contractor with technical expertise to participate in the design and construction to identify and resolve technical issues effectively. The same reasons that support the finding regarding specialized expertise are applicable here and are incorporated by reference.*

K. CONSTRUCTION OF A NEW STRUCTURE AND INTEGRATION INTO AN EXISTING STRUCTURE

The Project includes new equipment installations that must integrate and connect with the existing Dam No. 1 facility. Construction near the existing structures has the potential to impact existing operations that are required to maintain water supply to Portland Water Bureau customers. The CM/GC method will allow the CM/GC to inform the final design with respect to site and operational constraints during construction and allow early coordination of connections to existing facilities.

Finding: *The Project required significant integration between new equipment and existing structures. This integration will require close coordination between the Portland Water Bureau and the CM/GC during design and construction. In contrast, the DBB method does not permit the City to discuss and coordinate integration risks and constraints with the contractor until after the design is completed.*

L. OCCUPANCY DURING CONSTRUCTION

The Portland Water Bureau must maintain operations and water supply to customers during installation of the new equipment. This will require existing facilities to be operational and occupied during all phases of construction. Maintaining operations will require a high level of coordination with the Portland Water Bureau. The CM/GC method will allow the CM/GC to work with the Project team to understand operational challenges and constraints that may impact construction.

Finding: *The CM/GC will be able to develop a thoughtful and comprehensive construction schedule that accommodates operational constraints and minimizes conflicts between construction activities and daily operations. In contrast, the DBB method does not permit the City to discuss and coordinate operational constraints with the contractor until after the design is completed.*

M. PHASING OF THE PROJECT

The CM/GC will be added to the design team between the 30% and 60% design phases. Adding the CM/GC at this design stage will allow the CM/GC to provide early input on construction phasing, construction staging areas and access corridors, and connections to existing facilities. The CM/GC method may also allow the CM/GC to begin construction on early work packages while the design is being finalized. Completion of early work packages will allow any unforeseen conditions and to be coordinated and addressed efficiently during ongoing design.

Finding: *The CM/GC method will allow more flexibility for unforeseen conditions to be incorporated into the design with the least cost and schedule impacts. In contrast, the DBB method does not permit contractor to begin any construction work until after the*

design is completed resulting in potentially costly change orders or disputes that may impact the schedule or budget.

N. EXPERTISE AND EXPERIENCE OF THE CITY'S CONSULTANTS AND LEGAL COUNSEL IN ALTERNATIVE CONTRACTING METHODS

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. By the time the CM/GC contract is awarded, the City will have hired a PTE consultant for the Project with qualifications to work collaboratively under a CM/GC project delivery.

Finding: *The Portland Water Bureau has successfully completed several CM/GC projects and will hire a PTE consultant with CM/GC project delivery experience.*

IV. CONCLUSION

The City of Portland meets the requirements for allowing an exemption to the competitive bidding process as identified in ORS 279C.335 (2). Use of CM/GC alternative procurement process for the Dam #1 Spillway Gate Replacement Project allows:

- Evaluation of total Project costs based on a Project design that was value engineered by the CM/GC;
- Guarantee of the maximum price at final design, absent changes in the scope of work;
- Access to technical expertise in planning for sequencing construction phases during design;
- Taking advantage of the CM/GC's knowledge and experience in assessing constructability and developing cost effective designs;
- Experienced management of multiple technical subcontractors;
- Team building and partnering with Portland Water Bureau Project management staff and the design team;
- Early procurement of long lead materials and equipment;
- Coordinated responsibility for worker safety and security of the water supply;
- CM/GC assumption of some risk (i.e., cost, schedule, safety, maintaining service, quality, and constructability);
- Reduction of risk of construction delays and unanticipated costs for the Portland Water Bureau;
- Accelerated schedule with early solicitation of subcontract bid packages and early construction concurrent with final design;
- CM/GC's with experience working in remote areas with significant water quality requirements; and,
- Selection of a CM/GC based on Qualifications.