EXHIBIT A

GATEWAY PARK PROJECT

FACTUAL FINDINGS FOR PROPOSED EXEMPTION FROM COMPETITIVE BIDDING

The City of Portland Bureau of Parks and Recreation ("PP&R"), the Portland Development Commission ("PDC") 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 Gateway Park Project (the "Project") from the competitive bidding requirements of ORS Chapter 279C and City Code Title 5.34 and approve the Construction Manager/General Contractor ("CM/GC") as the alternative contracting method for the selection of a Construction Manager/General Contractor (the "Contractor") for the Project. Capitalized terms used herein shall have the meaning ascribed to them in the Ordinance.

I. BACKGROUND

PP&R in partnering with PDC is in the position to provide a new urban plaza and neighborhood park to the park-deficient East side neighborhoods of Hazelwood, Mill Park, and Woodland Park and serve as a catalyst for commercial development to promote revitalization of the Gateway Regional Center.

The Project is a result of an ongoing, city-led effort to transform the Gateway district into a Regional Center as described in the 2040 Framework Plan, the Outer Southeast Community Plan, the Opportunity Gateway Concept Plan, and the Gateway Regional Center Urban Renewal Plan.

In 2008, PP&R and PDC purchased three adjoining properties totaling 4.2 acres (collectively, the "Property"). PP&R and PDC currently hold joint title to the Property. Environmental assessments of the Property revealed that there are contaminants on the southern portion of the Property that require remediation. PP&R and PDC elected to take a conservative approach to Property clean-up and exceed the standards set by the Oregon Department of Environmental Quality. Based on community input and previous planning efforts it was determined that a portion of the now vacant Property should become a three acre urban plaza and neighborhood park and one-acre of complementary mixed-use development. Working with the community, in 2010 PP&R created a master plan (the "Plan") for the Property to guide future developments. The Plan was then adopted by the Portland City Council ("Council") in March of 2011.

Design of the urban plaza and neighborhood park is anticipated to begin in late 2014 with construction to commence in early 2016. Completion is anticipated for spring 2017.

The Project is driven by several factors: a technically complex design program; a contaminated site that has been capped; PPR's desire to create equity along with a very high quality product after many years of delay due to budget limitations; the need to minimize construction impacts to the business district and immediate neighbors; completing the project in a timely manner to allow the public access to the park and for PDC to complete the adjacent mixed-use development.

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 and PP&R goals. Ordinarily, the City is required to use competitive sealed bidding as the process to award a contract for the proposed Project. Accordingly, the Project needs to be exempted from the requirements of ORS 279C.300 that requires, among other things, the solicitation of competitive bids. Council is the Local Contract Review Board with the authority to exempt certain public contracts from the competitive bidding

requirements of ORS 279C based on the Findings. With the present action, Council will exempt the Project from the competitive bidding requirements of ORS 279C and authorize the CM/GC contracting method. State law permits the City to exempt certain contracts if Council is able to approve certain findings justifying an alternative approach. The factual bases to support the Findings in connection with the Project, including the Additional Findings (as hereinafter defined) 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, "[i]t 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 will be advertised in Portland's Daily Journal of Commerce and on the City's Online Procurement Center at least four 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 ("DBB") 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, 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 through a CM/GC process.

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 public 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. 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 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 DBB competitive bid process. This is especially true for the Project, which has a number of unique design features. The CM/GC contracting method allows the Contractor to understand and incorporate value-engineering ideas 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 BASES 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 RFP 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 DBB competitive bid process.

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

The Project will be funded by System Development Charges (SDC). PDC is contributing $1 Million to the Project from the Gateway Regional Center Urban Renewal Area Tax Increment Fund. The anticipated construction cost is estimated at $5.1 million with a total estimated project budget of $8.2 million. The budget for the new park was set based on the goals outlined through the community supported master planning process. The CM/GC contracting method will provide the opportunity for careful consideration of means and methods of construction as well as cost saving measures though construction phasing and timing which will make the delivery of the full design program more likely. The anticipated Operating Costs are in the range of $240,000 which will add a substantial commitment to the PP&R operating budget. Using the CM/GC method will allow the construction of the new park 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 which will be very cost effective to maintain thus keeping the anticipated operating costs for the park at a manageable level while providing a high level of service to the East Portland community.

C. Public Benefits That May Result from Granting the Exemption

There are multiple public benefits in connection with exempting the Project. The Project will function as Gateway's 'living room' with spaces and activities for all age groups and will contribute to the Gateway Eco-district. The design includes a public plaza with space for an interactive water feature, seating, dining, conversation, and a variety of events, festivals or a farmers market. Flexible green spaces will provide opportunities for family activities, strolling, fitness trail loops, seating areas, and event spaces for concerts and outdoor movies. Amenities include group and individual picnic areas, active play features, beginning-level skate and bike terrain, swing sets, play equipment, and nature play areas. The Project will promote and reinforce the identity of Gateway as a safe, family friendly, multi-generational, and multi-cultural place to live and work while enhancing the available mix of amenities, goods, and services to help complete a "20-minute neighborhood," where desired activities and amenities are within a safe 20 minute walk. In order to achieve maximum community benefit it is essential that PP&R has the ability to control the quality of the end product and to build the best park possible.

The Contractor will be available to coordinate and plan directly with the City, designers, affected property owners, businesses and residents in fashioning the best construction schedule, phasing, and interim traffic and access strategies. The result will be a construction program with the least impact on adjacent and nearby businesses and residences. In contrast the traditional low bid method requires completion of a design before bidding, which precludes contractor participation in being involved to minimize public impacts caused by the work. Therefore, the CM/GM contracting method could lead to the least overall construction impact to the public for constructing the Project with the lowest financial impact.

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 schematic design and 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 competitive bid process cannot take value engineering into account during the design stage because the design is 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 Required for the Project

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 working within a contaminated site that has been capped, the construction of two separate water features utilizing one mechanical system, one located in the plaza and the other located in the park, a sculpted concrete skateboard/BMX area, and a park building that combines a restroom/storage room/ water features mechanical room that integrates an overhead shade structure suitable for a farmers market and other similar events.

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 a 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.

The CM/GC contracting process will enable the City to select a Contractor based on its experience and qualifications for meeting demanding public safety and worker safety requirements while working in a

dense urban environment by providing 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. In contrast, the traditional low-bid method of contractor selection only permits the City to emphasize safety in its specifications and cannot give additional weight in the selection process to contractors whose track record exceeds standard safety requirements. In fact, the traditional method often does not contemplate safety in the selection process at all because of the price-driven nature of the process.

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

The Project area will present operational challenges to the Contractor that will be best handled if the contractor is involved during the design phase, rather than having to craft a response under challenging construction conditions as would be the case with a traditional DBB process.

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 these 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 PP&R or design consultants before the construction Notice to Proceed (NTP) is issued. In addition, the RFP process for selecting the CM/GC will give PP&R greater opportunity to question the respondents to discern the best responses to these issues.

By minimizing surprises, incorporating cost saving ideas in the original design phase, and avoiding hurried plans or adaptations to the construction plan, it is likely that PP&R 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.

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

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

The overall Project budget is $10.6 million and includes costs for Professional, Technical and Expert (PTE) services, pre-construction services, construction services, and contingency. The Project will be funded using SDC funds and $1 million of Tax Increment Funding from PDC. The contingency is a percentage of Project costs above the stated amount that the Project may exceed. As the Project design progresses from early to later design stages, 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 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. While funding does not change based on

use of the CM/GC contracting method, 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 Project cost overruns.

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

A CM/GC contracting process for the Project would reach the same or greater market of construction contractors as the Low Bid process. The Request for Proposals, including specialized skills required, the size and location of the project and major components of work, will reach the regional marketplace. The RFP will also require a response addressing the latest market innovations in sequencing and in means and methods. The CM/GC selection will be made by a committee, which will evaluate qualifications in addition to fee proposals to ensure the best combination of technical expertise at a cost-effective price.

CM/GC contracting has the added benefit of requiring the selected contractor to solicit competitive bids for its subcontractors during completion of design and permitting instead of afterward. This allows the CM/GC to 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 and efficient transition into construction once the Notice to Proceed is issued.

Because the City will be advertising for a contractor, a Request for Proposal process 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. In summary, market conditions favor the CM/GC process.

Numerous subcontractors and suppliers with unique expertise and capabilities will be required to build the specialized features of the Project. Some of these subcontractors and suppliers may be in high demand on other projects

Because the Contractor will be selected during the design phase, the alternative contracting process will allow the City more direct involvement and provide the Contractor with more time than the normal competitive bidding process affords for soliciting bids, negotiating and gaining firm commitments from qualified subcontractors and material suppliers.

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

The Project involves working within a contaminated site that has been capped, construction of two separate water features utilizing one mechanical system, one located in the plaza and the other located in the park, a sculpted concrete skateboard/BMX area, and a park building that combines a restroom/storage room/water features mechanical room that integrates an overhead shade structure suitable for a farmers market and other similar events. The CM/GC contracting method will allow the Contractor to proactively be involved in design to help develop construction approaches and methods to maximize the quality and constructability of these areas. 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 in the most efficient manner possible. Such involvement in the design stage would not be possible using the traditional DBB method.

The CM/GC contracting process, through its utilization of evaluation criteria will afford the best opportunity for the City to engage a Contractor that has a high level of expertise in the technical

requirements of building and scheduling the Project. 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.

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

The Project is for new construction of a public park.

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

Not Applicable. The Project is a public park.

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

The Project is located in one of the few commercial corridors in the Gateway area that are narrowed down to two lanes of traffic. The couplet also has a very concentrated collection of small, unique, locally owned businesses that are struggling with building a connection to the community and increasing economic output. Using the CM/GC contracting method will allow the City to hire the Contractor during the design phase of the Project will allow the Contractor to be involved in decision-making during the design and public involvement process which makes it far more likely that the final design will take into account any potential construction scheduling problems and allow early coordination of construction phases to minimize impacts to adjacent businesses, the neighborhood and NE Halsey traffic. These limitations requires a phased construction process in order to plan the construction phasing in a manner that cost effectively supports the local businesses and specialized construction while coordinating the detailed construction sequencing to maintain access with a minimum of disruptions to traffic throughout the construction period.

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.