EXHIBIT A

INVERNESS FORCEMAINS REHABILITATION PROJECT

FACTUAL FINDINGS FOR
PROPOSED EXEMPTION FROM COMPETITIVE BIDDING

The Portland Bureau of Environmental Services (BES) and the City of Portland Procurement Services (Procurement) 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 Inverness Pump Station Force Main Replacement Project from the competitive bidding requirements of ORS Chapter 279C and to approve the Progressive Design-Build (PDB) as the alternative contracting method for the Project. PDB involves hiring a single team to fulfill the roles of project designer and construction contractor (collectively, the "PDB Contractor") for the Project. Capitalized terms used herein have the meaning ascribed to them in the Ordinance.

I. BACKGROUND

The Bureau of Environmental Services (BES) manages wastewater and stormwater infrastructure to protect public health and the environment. The Inverness Pump Station (INVE) is a critical component of the BES sewage collection and conveyance system, and is required to operate reliably to prevent uncontrolled sewage releases. At 11,000-acres, the service area represents 12% of the City of Portland and is the 3rd largest service area of the sanitary-only pump stations owned and operated by BES. The Inverness service area includes critical commercial and industrial facilities as well as census tracts with some of the City's most vulnerable residential populations, using Bureau of Planning & Sustainability's Economic Vulnerability Assessment. Many census tracts within the Inverness service area also have higher percentages of non-white residents than the Portland average.

The pump station conveys sanitary flows to the Columbia Boulevard Wastewater Treatment Plant via the Inverness Pump Station Force Main (IFM) system, which includes two pressure pipeline systems:

- **24-inch IFM**: A 24-inchuctile iron pipe (DIP) installed in the 1980's approximately 46,000 linear feet (lf), or 8.7 miles.
- **36-inch IFM**: A second pressure line system that was completed in 1995 with:
  - A reach that is a single 36-inch concrete cylinder pipe (CCP).
  - A second reach that was built with parallel 20-inch and 30-inch CCP.
  - The total length of the CCP pressure line system is approximately 56,000-lf, or 10.6 miles.

The 24-inch system was taken out of service after an inspection in the late 1990's showed significant condition issues along the pipeline and the critically important air release and vacuum valves (ARV's) were either inoperable or inadequate. Since then, the 36-inch IFM system has

been the sole conveyance system between the Inverness Pump Station and the Columbia Boulevard Wastewater Treatment Plant (CBWTP).

Since the startup of the 36-inch IFM, four localized and containable failures have occurred. Inspections at the failure locations showed structural issues due to corrosion. Currently, only a very small proportion of the 36-inch IFM system's condition is known (only 2,150 linear feet). The condition of much of the system is unknown.

A failure along the Inverness force main system could cause a localized uncontrolled spill along the force main alignment and/or a spill at the Inverness Pump Station site. In either scenario, there is a risk of a release of a significant volume of raw sewage to the environment, including the Columbia Slough, roadways, and private properties. Any raw sewage spill carries significant social, environmental, and economic risks.

A quick delivery of this project is desired due to concerns about further deterioration of the 36-inch IFM and its criticality to ensure continuous sanitary sewage conveyance to the residential, commercial and industrial communities within the service area. Solutions will address the reliability and condition of the 36-inch IFM, utilizing the 24-inch IFM as a bypass, if the 36-inch must be fully taken out of service for inspections and repairs. Refinement of the scope will be addressed collaboratively with a PDB Contractor in the initial phase of the project.

Force main systems are notoriously difficult to inspect – most require continuous operations with minimal or no outages, to allow for normal pump station operation. However, many inspection technologies may require some system outages or reductions in flow to obtain adequate condition assessment data. Current models indicate that the Inverness pump station can be offline for a maximum of 8-hours during dry-weather conditions.

The project goal is to ensure reliable service from the Inverness Pump Station to the Columbia Boulevard Wastewater Treatment Plant (CBWTP) and reduce risk of failures in the IFM system as soon as practical. Given the challenges of the project, the Progressive Design Build (PDB) delivery method was identified as providing the most value to the project. This method allows the City to select a highly qualified and experienced team in both design and construction to evaluate constructable solutions and alternatives right away, as well as plan for immediate condition assessments. Using the PDB delivery method will increase the likelihood that the best value solutions are identified early-on using the most current industry technologies. Early involvement with a contractor will increase collaboration evaluating the criticality of the service, operating constraints, constructability risks, and opportunities. The traditional design-bid-build method does not allow for constructability reviews or collaborative solution development. Lastly, individual procurements for condition assessments, design, and resulting pipe rehab construction would add significant time to the overall project schedule.

The collaborative nature of the PDB method can allow for early identification of solutions that can also allow the City to identify schedule efficiencies earlier than the typical design-bid-build method, ensure minimal disruptions in service, opportunities to procure long-lead materials early, and negotiate a construction guaranteed maximum price reflecting the means and methods to be used. The combination of pipe inspections, design, and construction into one contract, public funds can be maximized to provide the best value for the City.

Ordinarily, the City is required to use competitive sealed bidding as the process to award a contract for a proposed Project. Accordingly, the Project needs to be exempted from the requirements of ORS 279C which includes, among other things, the solicitation of competitive low bids. 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.

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 alternate contracting process will not limit competition or encourage favoritism in the selection process when compared to the standard "low bid" process. BES will issue a Request for Proposals (RFP) for a Contractor for this project in accordance with established RFP procedures that will attract competition for this contract from numerous contractors in the construction community. The RFP will be advertised in Portland's Daily Journal of Commerce and on the City's Online Procurement Center at least three weeks in advance of the deadline set for submitting responses to the RFP. The proposals submitted in accordance with the RFP will be evaluated based on criteria including team experience, capabilities, specialized expertise, key personnel qualifications and staffing, ability to meet social equity contracting and workforce goals, safety record, and percentage profit and overhead markup. A selection committee will evaluate and rank the written proposals; conduct interviews if necessary; and recommend a PDB Contractor for 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 this public contract.

The PDB approach may make the Project more attractive to qualified firms because of the opportunity to better understand the Project, including means and methods, prior to providing the City with pricing, thus reducing their risk in undertaking the Project. Firms with experience and capabilities to perform the work will have an opportunity to compete. Therefore, it is not expected that competition will be diminished using the PDB 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 public contracting agency." This finding is appropriate for the Project and is supported by the following facts:

The PDB contracting approach provides opportunities for the PDB Contractor to conduct inspections early-on to confirm the project approach. An early alternatives analysis and a value engineering evaluation will identify cost- and schedule-effective approaches to achieve project goals and performance requirements. This early collaboration typically results in more practical and economic design and construction solutions and can reduce risks of cost overruns in later project phases.

Due to the criticality of the force main, expediency of the built solution will be an important criterion to the alternatives analysis task. A PDB approach enables the PDB Contractor to verify field conditions and the parameters used for a more effective design. Early procurement of critical materials and assistance with permitting will be possible while other project elements are finalized. The PDB approach allows for the collaborative evaluation of constructability risks and means-methods which may influence design before preparing pricing and schedules for the work.

Finally, the development of contract amendments, and a negotiated Guaranteed Maximum Price (GMP) proposal, as opposed to a low-bid proposal, provides the City with greater transparency and ownership into the actual costs of construction, including pricing for risk and contingencies. This collaboration is not possible under a traditional design-bid-build process.

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 to the extent applicable to this Project (collectively, the "Additional Findings").

A. How Many Persons are Available to Bid

Nationwide and locally, an increasing number of contractors are gaining experience with alternative delivery projects. The size of this project is suited for contracting teams that have experience in alternative delivery and can build on their relationships with the local subcontracting community and union halls for workforce hiring. These firms will include some contractors that might not bid for the Project under a traditional design-bid-build competitive bid process due to uncertainties and potential risks associated with bidding and contracting.

Additionally, this delivery method can facilitate identification and outreach to firms certified with the State of Oregon's Certification Office for Business Inclusion and Diversity ("COBID-certified" firms) that may otherwise not have an opportunity to participate in the project due to the traditionally compressed low-bid timelines. The RFP will also include scoring criterion that reflects the importance of equity in contracting and diverse workforce utilization on the Project.

To increase the number of bidders, BES and Procurement will partner to introduce the project to local and regional contractors and consultants to ensure that firms have time to assemble capable and qualified PDB teams.

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

The Project will be funded by the Sewer System Operation Fund from BES. The anticipated total PDB contract costs have a broad range, due to the uncertainty about whether the 24" line must be utilized as a bypass in order to inspect and rehabilitate the 36" line – to be determined in the initial phase of the project. Using the 24" as a bypass will require some rehabilitation and repair to that line. To account for that scope, costs are currently estimated to be approximately $46 million with a possible range between $34-69 million, with a low level of certainty. Using the PDB approach will allow the City and PDB Contractor to narrow the scope and associated uncertainty as design progresses. Once all scope decisions are made and design progresses to the appropriate level of definition, a GMP will be established to lock in the overall construction price and schedule. This approach will ensure that costs are aligned with the project goals and requirements.

By having a joint design-build team at the start of the project, the PDB method will provide opportunities to reduce construction risks, by optimizing construction means and methods and exploring innovative construction approaches and cost saving measures throughout the life of the Project. The PDB method will also enable the team to be in control of the schedule to meet project delivery goals through joint design, permitting, and construction planning.

Generally, the anticipated operating costs will remain comparable to current levels, however improvements that address safety access and maintainability for operation and maintenance staff will improve overall operation and maintainability of the upgraded facilities, resulting in a long-term operational cost savings.

C. Public Benefits That May Result from Granting the Exemption

The PDB delivery method will facilitate the completion of this complicated Project with the least disruption to the public, business, and property owners. A PDB Contractor, working closely with the City during the development of the project, can collaboratively and efficiently explore design with constructability alternatives that meet project goals in the most effective and efficient manner.

The PDB process promotes the incorporation of schedule-saving approaches prior to the completion of the design. The PDB process allows the Contractor more time to engage in developing a plan to reduce construction impacts to the public, including traffic and parking restrictions, noise, vibration and dust.

Additionally, utilizing the PDB method for this Project allows the PDB Contractor to plan for and promote outreach for the utilization of women and minority apprentices, COBID-certified subcontractors to achieve social equity in contracting and workforce diversity goals with continuous monitoring of performance throughout the span of the Project.

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

Using the PDB method, the project is developed progressively towards a guaranteed maximum price with a joint design-build team, allowing for constant feedback on available constructability methods, risks, costs, and schedule impacts. This continuous vetting of

design against construction methods, costs, and schedule has been shown to reduce change orders associated with unforeseen conditions, claims, and delays during the construction phase compared to the traditional design-bid-build process. Moreover, the construction work is completed by the same team that completed the condition assessments and design, potentially reducing the risk of change orders, aside from those for unforeseen conditions or owner-elected changes.

E. The Cost and Availability of Specialized Expertise Required for the Project

The Project requires extensive experience and expertise with pipe condition assessment/inspection technologies, construction of deep underground sewer structures and potential trenchless methods under complicated subsurface conditions. There are several local and regional contractors that have this specialized expertise included in this project (i.e. inspection of force mains, design of force main rehabilitation and repair, construction of force main repairs). By combining these discrete capacities into one contract, public funds can be maximized to provide the best value for the City.

F. Any Likely Increases in Public safety

Construction of the Project will occur underground along local and high-traffic roadways and on private property. It is critical for a contractor to promote safe working conditions and good safety practices for themselves, the City staff, neighbors, and the public. The PDB delivery method allows a PDB Contractor's safety performance on similar projects to be considered as a selection criterion. It also permits the City to work closely with the PDB Contractor to ensure that the design and construction means and methods incorporate appropriate safety measures, that the PDB Contractor understands the City's safety requirements, and takes appropriate steps to address them through its design and construction health and safety plans.

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

The PDB contracting method allows the City to proceed with pipe investigations, to refine the scope of the project, and identify best value alternatives for vetting by the City. Then, as the design progresses, the City and PDB Contractor can identify and develop risk mitigation measures specific to the selected alternative which are then allocated in a negotiated guaranteed maximum price agreement prior to construction, which can reduce overall uncertainties and the risk carried by the City in the construction phase. The PDB delivery method enables a better identification and allocation of risks, negotiated before construction starts, than with a traditional low-bid procurement process where risks are perceived, not negotiated, and rarely transparent.

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

The Project will be funded by the Sewer System Operation Fund from BES. Funding availability or utilization is not impacted by using the PDB delivery method.

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 construction industry is a relatively unpredictable industry with prices fluctuating constantly. PDB contracting method allows for more cost-control capabilities, as well as open-book cost estimating, with the potential for more trust and collaboration among the entire project team. The risks associated with market pricing fluctuation can be mitigated via early procurement of materials and equipment, a tool not-easily implemented via traditional design-bid-build project delivery. Thus, the PDB method can enable the City to control the impact of price increases occurring in the current market and to avoid schedule delays resulting from long lead-time products by purchasing them before construction, if appropriate.

Additionally, the PDB contracting method increases the opportunity to identify and reach out to qualified small businesses, including COBID-certified firms, to participate in the Project. Outreach strategies and goals will be established during the design phase and incorporated into the procurement and subcontracting plans to be implemented during construction.

The combination of pipe inspections, design, and construction into one contract, public funds can be maximized to provide the best value for the City.

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

Technical complexities of the Project include performing condition assessment of active underground pressure sewer pipelines, excavation and construction near buildings and high traffic corridors, work on private properties in close proximity to residential areas, potential sewer bypassing, while working around operational constraints for the force main and pumping system. Early input from contractors regarding construction planning and sequencing, due to the need for continuous operation of the IFMS and wet weather impacts on construction, will enable the team to address technical complexities to complete the Project in the most safe and efficient manner possible. The PDB process allows the City to solicit expertise, knowledge, and feedback as design is developed about constructability and ensure the Project goals and technical requirements are met.

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

The Project will primarily include rehabilitations to existing infrastructure, but some new construction may be required. Rehabilitation will occur primarily on existing sewer force mains to repair structural defects and/or extend service life to ensure reliable sewer service. Selecting a PDB Contractor that is capable and qualified to address a variety of construction activities related to aging force mains will ensure success for the Project.

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

The public improvements in the Project will be unoccupied during construction. If construction is required on private properties, the selected PDB Contractor will provide the public and property owners safe access where required.

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

The Project is anticipated to be implemented in multiple phases. Early phases will include scope confirmation, alternatives analysis, and other pre-construction services tasks necessary to conduct inspections and collect other data for design. Subsequent phases will include design development, construction, and commissioning. Construction may occur in multiple phases and overlap with design, as necessary, to meet project goals.

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

The City has retained consultants with expertise and experience in the PDB delivery method to assist with the procurement process and provide supplemental legal resources. For the remaining elements, including managing, negotiating, administering and enforcing the terms of the Project contract, the City has the necessary internal staff resources.