EXHIBIT A

FLEET RELOCATION AND CONSTRUCTION

FACTUAL FINDINGS FOR PROPOSED EXEMPTION FROM COMPETITIVE BIDDING

The Bureau of Fleet and Facilities/Facilities Services ("Facilities") 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 Fleet Relocation Project (the "Project") from the competitive bidding requirements of ORS Chapter 279C and to approve the Construction Manager/General Contractor ("CM/GC") as the alternative contracting method for the selection of a Construction Method for the Project. Capitalized terms used herein have the meaning ascribed to them in the Ordinance.

BACKGROUND

The Kerby Garage, located on N. Kerby Avenue, has supported City public works since 1922. Several additions and modifications have been made to the building over the years with the last in 1971 when the garage portion was transitioned to CityFleet for its sole use for vehicle maintenance. Since then, the City's fleet has grown approximately 270%.

Due to site and structural constraints, the garage cannot be feasibly retrofitted into a modern fleet maintenance shop at the scale currently needed by CityFleet. The existing garage is undersized, inefficient, and inappropriate for modern fleet maintenance. The building also requires substantial repairs to address deferred maintenance and seismic deficiencies and improvements are necessary to address safety, operational costs, and repair times.

Several City and state mandates require a transition to "greener" vehicles, but there is currently a lack of facilities able to support an expanding green fleet within the City. Kerby Garage has insufficient capacity to support Electric Vehicle (EV) charging at the scale necessary to support these goals. The site also lacks the space to create the specialized maintenance shop bays and ventilation required by code to service renewable natural gas (RNG) fuel systems, a key "bridge fuel" to facilitate the transition to fully electric.

Lastly, the overall workspace quality at Kerby Garage lags notably behind peer communities. For example, the facility lacks basic amenities like adequate daylight, fresh air, and a staff kitchen. ADA accessibility is very limited throughout the garage, and the shop office is not ADA accessible at all.

The City has determined that leasing and modifying an existing space and constructing fleet-specific tenant improvements is the most fiscally feasible approach to the project. The garage will have unique design requirements as compared to common municipal facilities and will require specialized equipment. Overall, the project will necessitate strong coordination between project participants from the design phase of work through construction close-out.

Based on the Findings, using a CM/GC contracting method will support successful completion of the Project in the most efficient and cost-effective manner to achieve Facilities' goals. 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.300, which 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 approves 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.

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 CM/GC 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 portal three to 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, corporate responsibility (including equity and sustainability commitments), 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 CM/GC for the 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 CM/GC 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 ("DBB") 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 and to reduce their risk in undertaking the Project. Therefore, competition will not be diminished, and may even be enhanced by procuring the Project construction services through a CM/GC process.

OPPORTUNITY FOR 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 CM/GC to make value engineering recommendations such as proposing 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 CM/GC to become more familiar with the Project features and requirements before bidding the work. This familiarity means that the CM/GC may reduce cost contingencies that other contractors frequently escalate in their bids to take account of uncertainties that are not resolved during the brief bidding period under a traditional DBB competitive bid process. This is especially true for this Project, which has a number of unique design features.

The CM/GC Contractor would be involved early in the design process, facilitating involvement in the final plan development and the planning of construction sequencing.

The CM/GC contracting method allows the CM/GC 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 CityFleet's budget for the Project. Additionally, early Contractor involvement could reduce contingency costs as compared to the traditional DBB delivery method, which has only a very brief period for bidding. Overall, CM/GC contractor involvement during design can result in more practical, constructible, and economical design solutions while maintaining the design's integrity.

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").

1. How Many Persons are Available to Bid

The CM/GC contracting method will result in broader participation and greater competition than the traditional bidding process. All qualified CM/GC 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.

The CM/GC contracting method has the added benefit of allowing the selected CM/GC to solicit competitive bids for various aspects of work as the work is being designed. The CM/GC will be able to prepare materials and equipment submittals early and issue bid packages to suppliers and vendors during design for timely delivery.

Additionally, this method provides increased opportunity to identify and outreach to Service-Disabled Veterans Business Enterprises, Disadvantaged, Minority, Women, and Emerging Small Business minority-owned businesses (SDV/D/M/W/ESB) that may otherwise not have an opportunity to participate in the Project. The RFP will include equity in contracting and workforce outreach and utilization goals to maximize diverse participation on the Project.

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

Debt financing for these improvements was approved and incorporated into the FY 2024-25 Adopted Budget. Annual debt service costs will be allocated to City bureaus through Fleet rates and interagency agreements beginning in FY 2025-26 and have a term of 20 years.

In addition to debt service, ongoing costs of $2,986,000, associated with this project will begin in FY 2025-26 and will include the following:

- Lease costs of $1,140,000
- Common area maintenance costs of $260,000
- Net additional operations and maintenance and major maintenance costs of $1,652,000; major maintenance costs are based on 3% of the value of the fleet-specific improvements being constructed in the facility.
- Kerby Garage mothball costs of $158,000
- Termination of CityFleet's lease with ODOT for its remaining space under I-5 ($224,000). The anticipated construction cost is estimated at $42,016,303 (including contingencies). The total project budget, including indirect costs, is $53,127,254. Although the project has been professionally cost estimated twice by a third-party cost estimator, and although their construction estimates came

within 7% of one another, the project has not yet hit 60% complete for design and engineering. Thus, per the City's Confidence Level Rating Index, Facilities' confidence in the cost estimate must be rated as low.

The CM/GC contract method will provide the opportunity for careful consideration of means and methods of construction as well as cost saving measures through construction sequencing and timing which will make the delivery of the full design program more likely.

Using the CM/GC contracting method will allow the construction of the Project to meet the highest possible construction standards and support a high level of expertise to successfully complete the specialized aspects of the Project. This will ensure the delivery of a high-quality project that is cost effective to maintain, thus keeping the anticipated operating costs for the fleet maintenance and repair facility at a manageable level while providing a high level of service to the City bureaus.

The CM/GC delivery method will allow the project team to engage with the CM/GC at the early design phase. Adding valuable feedback regarding construction methods, material availability, and sequencing. This input during design will help the projects meet the expedited schedule and align scope with budget. In addition, the project will involve multiple phases, adding another layer of complexity to the project. Having the CM/GC onboard early will help streamline efforts and meet overall project goals.

3. **Public Benefits That May Result from Granting the Exemption**

There are multiple public benefits in connection with exempting the Project.

During construction. The CM/GC contracting method allows for better coordination of subcontractors due to earlier collaboration with the architect and owner during the design phase of work. Early involvement also ensures an easier development of construction phase back-up plans in consideration of the Project's schedule constraints by having the insight to identify lead-time risks sooner, thereby minimizing the potential for the disruption of critical CityFleet services to City bureaus during the forecasted move period. Upholding CityFleet's move deadlines is important given CityFleet's obligations to provide City bureaus with fleet services during winter/inclement weather.

The alternative contracting method also allows the City greater opportunities to monitor the CM/GC's outreach and utilization of D/M/W/V/ESB subcontractors and diverse workforce to achieve equity goals with the Project during pre-construction and construction.

4. **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 or functionality. Value engineering will be enhanced on the Project as it is on other projects where the CM/GC can be selected before the design is completed. In that way, the CM/GC's expertise and resulting revisions can be incorporated into the project at the design development stage, 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. During the competitive bid process, bidder questions and clarifications often lead to an extended bid process, which causes delays and increases costs. Changes after a project is competitively bid can result in increased costs for the City as well in a change order process. A traditional competitive bid process cannot take value engineering into account during the design stage because the design is usually complete before bids are received.

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

5. **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 CM/GC with the specialized expertise required for the Project. The cost for such specialized expertise is included in the overall Project budget. The Project involves several design components that are unique to the fleet maintenance industry and requires specific equipment that will necessitate specialized expertise to install.

The CM/GC will engage subcontractors during the early design phases to receive preliminary bids for the work. These bids will be compared to the independent cost estimation and vetted by the CM/GC, City, and Design team to verify the construction costs align with the Project goals and budget. If the bids come in higher than anticipated, the CM/GC will provide recommendations for cost reduction that meet budget and schedule.

The early bid engagement by the CM/GC will also provide valuable insight on subcontractor and trade availability, which may impact construction methods and material selection. With the expedited schedule, receiving this information is imperative to maintaining the project timeline.

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

6. **Likely Increases in Public Safety**

The CM/GC contracting method allows a CM/GC's actual safety 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 ensure that the construction process provides appropriate safety measures, that the CM/GC understands the City's safety concerns and that the CM/GC will take appropriate steps to address them.

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

The CM/GC project delivery method fosters early coordination between designer, Contractor, and City staff which leads to a better outcome than with a traditional low-bid procurement project; challenges, risks and issues can be anticipated and resolved earlier in the process. Early coordination allows the contractor to set expectations and advise on construction schedule to avoid impacts to service delivery and project costs and mitigate risk.

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

The CM/GC project delivery method will facilitate a much greater Project understanding by the CM/GC before construction starts, and involvement throughout the design phase in which to craft a thoughtful and comprehensive construction schedule that accommodates these challenges. It would be challenging for even an experienced contractor to produce a plan of this quality without the lead time and project team interaction the CM/GC project delivery method provides, because traditionally the DBB process allows minimal opportunities for interaction with the project team or designers before the construction Notice to Proceed is issued.

By maximizing team collaboration and incorporating cost savings ideas throughout the design phase, it is likely that the City's Project management team can mitigate costly change orders and disputes. Utilization of the CM/GC project delivery method permits the CM/GC not only to understand the designer's intent and assumptions, but to be a part of the design process. The DBB project delivery method does not allow for input on the part of the contractor during the design phase. This lack of involvement can lead to plans and specifications that are difficult to construct.

Using the CM/GC contracting method will allow the City to hire the Contractor during the design phase of the Project. This enables the CM/GC to develop a comprehensive construction schedule before initiating the work with input from the Project team. The interaction between the Project team and the CM/GC during the design process makes it far more likely that the final design will take into account any potential construction issues and allow early coordination of construction sequencing to minimize impacts.

The RFP process for selecting the CM/GC allows Facilities an opportunity to question the respondents to discern their expertise on contracting methods and sequencing.

This approach also offers the greatest flexibility, risk reduction, reliability, and ease of construction. The Project budget is likely to be more stable as a result of this approach and it is less likely that there will be cost overruns. With the deadline of Fall 2026, the CM/GC process is intended to expedite the schedule and facilitate early and timely completion of the project.

CM/GC allows for coordination of multiple phases. The desired completion date will include onboarding, training of staff and testing of systems and equipment. A phased approach to transition CityFleet to the new location will necessarily maintain consistent and functional operations. Early coordination with a CM/GC will help to ensure that equipment is fully operational, and that staff are fully trained, prior to each phase.

8. **Whether Granting the Exemption will Affect the Funding Sources for the project**

The overall Project budget is $53,127,254 and includes costs for Professional, Technical and Expert (PTE) services, pre-construction services, construction services, all project soft costs as well as contingency. The contingency is a percentage of the Project costs above the stated amount that the Project might be expected to exceed. The confidence level of these estimates is low. As the design process progresses from preliminary to final design, the confidence rating regarding the Project cost increases and, correspondingly, the contingency percentage decreases. Maximum construction contract amounts within the fixed budget will be negotiated with the selected CM/GC. 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.

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 Project**

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

The construction industry is a volatile industry with prices fluctuating almost constantly. By designing to a GMP, having open books among the entire Project team, and establishing a high degree of trust and collaboration among the Project team,

market fluctuation can be accommodated for and folded into the design of the Project. By bringing together a creative set of minds that have a deep and thorough understanding of the Project's intricacies, the design can be more flexible and the approach can be more efficient. Additionally, the means and methods can be thoroughly integrated into the design.

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

The CM/GC contracting method will allow the CM/GC to proactively be involved in the design phase to help develop construction approaches and methods to maximize quality and constructability of the fleet maintenance and repair facility. This early involvement during the design phase will allow the Project team and the CM/GC to actively work together to find solutions to complete the Project in the most efficient manner possible. The CM/GC process allows for early procurement of materials, which often causes delays and scheduling issues on traditional low bid projects.

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

The Project is for renovation of an existing structure to provide a new fleet maintenance and repair facility.

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

The Project will be unoccupied during construction, and anticipates a phased approach to occupancy after substantial completion. The CM/GC in coordination with the City stakeholders will provide safe pathways to accommodate site visit and will help to coordinate an occupant move-in schedule to ensure safety.

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

To avoid extra costs, construction needs to be completed expeditiously. CityFleet operations need to run continuously and remain uninterrupted. This limitation requires a carefully sequenced construction process in order to ensure a successful phased approach to occupancy and operations in the new location. Identifying and incorporating schedule impacts in the design phase and avoiding hurried plans or adaptations during the construction phase allows Facilities to avoid costly change orders or disputes that impact the schedule or budget. It is necessary to carefully consider the means and methods of construction and possible phasing options during the design phase of the Project to ensure a minimum of delays and costs during construction.

14. 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.