

BEFORE THE METRO COUNCIL CONTRACT REVIEW BOARD

RESOLUTION OF METRO COUNCIL, ACTING ) RESOLUTION NO. 09- 4059  
AS THE METRO CONTRACT REVIEW BOARD, ) Introduced by COO Michael Jordan, with the  
FOR THE PURPOSE OF APPROVING A ) concurrence of Council President David  
CONTRACT AMENDMENT FOR THE COOPER ) Bragdon  
MOUNTAIN NATURE PARK )

WHEREAS, pursuant to ORS 279A.060 and Metro Code 2.04.058 the Metro Council is designated as the Public Contract Review Board for the agency;

WHEREAS, Metro Code 2.04.058 requires Council approval for contract amendments that exceed \$25,000 and over 5% of the initial contract value for public improvements;

WHEREAS, The Sustainability Center has determined that the additional work in this change order is necessary and appropriate, and is within the contingency budget for the project;

WHEREAS, under the direction of the Cooper Mountain Construction Manager, Paul Brothers, Inc. is constructing the Cooper Mountain Nature Park improvements in accordance with the project specifications and schedule;

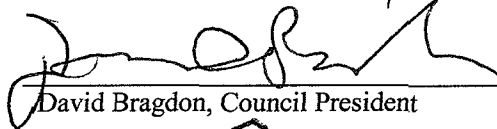
WHEREAS, the original contract was awarded as a result of an open competitive bid process with Paul Brothers, Inc. being deemed the lowest responsive and responsible bidder;

WHEREAS, the original contract amount was \$1,684,700 and the proposed contract amendments are projected to increase the total contract amount to \$1,910,082. The additional work has been reviewed by the Cooper Mountain Construction Manager and the project architect and engineer and has been approved as appropriately priced;

WHEREAS, the Metro Procurement Officer believes that the amending the existing contract with Paul Brothers, Inc. is appropriate and that such action is in the best interests of Metro and competing the additional work would be impractical; and

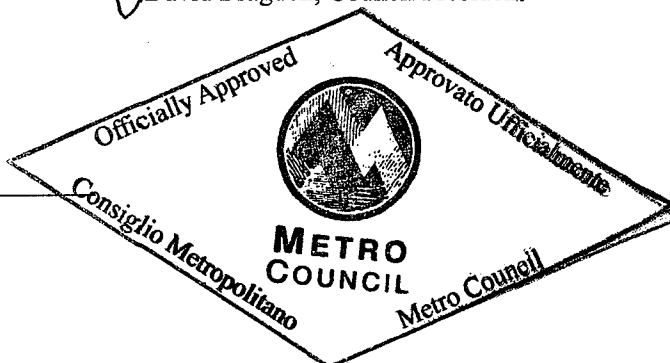
BE IT RESOLVED that the Metro Council acting as the Public Contract Review Board authorizes the Procurement Officer to execute contract amendments up to the amount of \$1,910,082 with Paul Brothers, Inc. for the Cooper Mountain Nature Park project.

ADOPTED by the Metro Council Contract Review Board this 21 day of May, 2009.

  
David Bragdon, Council President

Approved as to Form:

  
Daniel B. Cooper, Metro Attorney



## STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 09-4059, RESOLUTION OF METRO COUNCIL, ACTING AS THE METRO CONTRACT REVIEW BOARD, FOR THE PURPOSE OF APPROVING A CONTRACT AMENDMENT FOR THE COOPER MOUNTAIN NATURE PARK

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Date: May 12, 2009

Prepared by: Darin Matthews, 503 797-1626  
Lydia Neill, 503 797-1830

### BACKGROUND

An open, competitive Request for Bid (RFB) was issued for the Cooper Mountain Nature Park project in 2009. In accordance with Metro Code, the lowest responsive, responsible bidder was selected, which was Paul Brothers, Inc.

This contract was awarded on August 6, 2009 in the amount of \$1,684,700 and work began in September 2009. The Construction Manager, Lydia Neill reports that this project has progressed as planned and that Paul Brothers, Inc. has provided construction services in accordance with the contract and has performed additional work as directed by the owner. Overall the quality of work and the partnership with the prime contractor has been acceptable.

During the course of construction, the following additional services have been approved:

Change Order #1- Additional trail construction	\$37,504
Change Order #2- Excavation and installation of maintenance road	21,200
Change Order #3- Bridge footing revisions	2,347
Change Order #4- Minor additions to the nature house	1,087
Change Order #5- Solar system upgrade and additional engineering	4,232
Change Order #6- Additions to the nature house, roof bracing	3,941
Change Order #7- Cistern demolition, right of way improvements, fire hydrant relocation	21,785
Change Order #8- Trail system improvements, septic system addition, plant installation	36,724
Change Order #9- PENDING, excavation, drainage, sign installation, wall/fence (deduction)	25,789
Change Order #10- PENDING, solar monitoring system, lighting and material upgrades	<u>22,141</u>
Total	\$1,870,082

It is anticipated that additional work will be required to complete improvements in the nature based play area, install additional irrigation and address erosion issues on the trail system. This work is likely to cost between \$25,000 and \$40,000. Staff is requesting authority to amend the contract not to exceed \$1,910,082.

The Construction Manger and the Planning and Development Manager reviewed the additional services and agree the work is necessary and can be paid within the existing project budget. The consulting architect for the projects also reviewed the requests and verified that the work is outside of the existing contract scope and reasonably priced. The proposed changes are partially due to changes required by Washington County after the bid was awarded and the permit was issued. Extensive work is required on the trail system to address unknown ground water issues.

Metro Code 2.04.058, Public Contract Amendments, requires Metro Council approval of contract amendment or change orders that exceed \$25,000 and over 5% of the total value of the contract. While a portion of the work exceeds the 5% change order limit, there are a number of reasons for these increases. The reasons include a number of unforeseen conditions such as groundwater issues, erosion that requires immediate attention, compliance with permitting requirements of Clean Water Services, and the need to maintain safe working conditions on the site by closing an open water containment system. Additionally, some of the change order work had pricing established through the original bid process (excavation, culvert installation and trail construction). The cost for these items would not be included within the change order limits. Therefore, this additional work was outside of the control of the contractor and the Sustainability Center feels it is reasonably priced and necessary for the successful completion of the project. The Metro Procurement Officer has deemed this amendment to be appropriate and reasonably related to the original scope of work, and therefore, believes the amendment is in Metro's best interest to approve.

The Construction Manager will continue to manage and administer this contract to ensure construction is in accordance with the contract, including all plans and specifications. Staff continues to look for value engineering opportunities. The Cooper Mountain Nature Park is scheduled to open in summer 2009.

### **ANALYSIS/INFORMATION**

1. **Known Opposition:** None known.
2. **Legal Antecedents:** Metro Code 2.04.058, ORS Chapter 279C.
3. **Anticipated Effects:** Construction will continue on the Cooper Mountain Nature Park in accordance with the contract document and project schedule.
4. **Budget Impacts:** The Metro Council previously approved an amended Cooper Mountain Nature Park project for a total capital budget of \$3,028,917 million. This change order request falls well within budgeted contingency amounts. It is expected that the total project costs will fall below the total capital budget.

### **RECOMMENDED ACTION**

Metro Council, acting as Public Contract Review Board, approves the attached contract amendment with Paul Brothers, Inc.