

BEFORE THE METRO COUNCIL CONTRACT REVIEW BOARD

RESOLUTION OF METRO COUNCIL, ACTING ) RESOLUTION NO. 10-4109  
AS THE METRO CONTRACT REVIEW BOARD, ) Introduced by Metro Councilor Carl Hosticka,  
FOR THE PURPOSE OF APPROVING A ) with the concurrence of Council President  
CONTRACT AMENDMENT FOR THE ) David Bragdon  
GRAHAM OAKS 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 Graham Oaks Construction Manager, JP Contractors, Inc. is constructing the Graham Oaks 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 JP Contractors, Inc. being deemed the lowest responsive and responsible bidder;

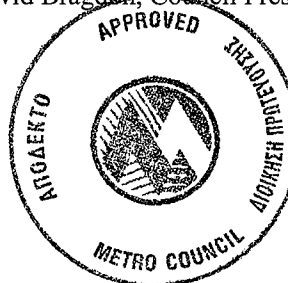
WHEREAS, the original contract amount was \$1,483,225.50 and the proposed contract amendments are projected to increase the total contract amount to \$1,645,068.50. The additional work has been reviewed by the Graham Oaks Construction Manager and the project landscape architect and has been approved as appropriately priced;

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

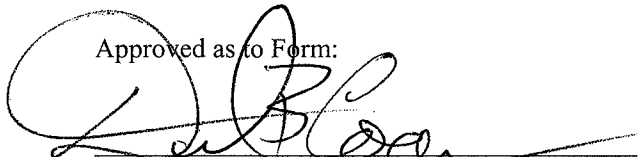
BE IT RESOLVED that the Metro Council acting as the Public Contract Review Board authorizes the Procurement Officer to execute contract amendments up to the amount of \$1,645,068.50 with JP Contractors, Inc. for the Graham Oaks Nature Park project.

ADOPTED by the Metro Council Contract Review Board this 7 day of JAN, ~~2009~~ <sup>2010</sup>.

  
David Bragdon, Council President



Approved as to Form:

  
Daniel B. Cooper, Metro Attorney

BEFORE THE METRO COUNCIL CONTRACT REVIEW BOARD

RESOLUTION OF METRO COUNCIL, ACTING ) RESOLUTION NO.10-4109  
AS THE METRO CONTRACT REVIEW BOARD, )  
FOR THE PURPOSE OF APPROVING A ) Introduced by Metro Councilor Carl Hosticka,  
CONTRACT AMENDMENT FOR THE ) with the concurrence of Council President  
GRAHAM OAKS NATURE PARK ) David Bragdon

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; and

~~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; and~~

~~WHEREAS, under the direction of the Graham Oaks Construction Manager, JP Contractors, Inc. is constructing the Graham Oaks Nature Park improvements in accordance with the Metro public improvement contract project specifications and schedule; and~~

WHEREAS, ~~on September 22, 2009, Metro awarded a Metro's~~ \$1,483,225.50 public improvement contract ~~with JP Contractors, Inc.~~ for the construction of the Graham Oaks Nature Park improvements ~~to JP Contractors, Inc. (the "Graham Contract") the "JP Contract") was awarded as a result of an open competitive bid process; and~~

~~WHEREAS, under the direction of the Graham Oaks Construction Manager, JP Contractors, Inc. is constructing the Graham Oaks Nature Park improvements in accord with the Graham Oaks project specifications and schedule set forth in Metro's public improvement contract; and~~

WHEREAS, ~~additional work is now needed,~~ as set forth in the Staff Report attached hereto, additional work is now needed, in the amount of \$161,843.00, which would increase the total contract amount to \$1,645,068.50. The additional work has been reviewed by the Graham Oaks Construction Manager and the project landscape architect and is deemed to be appropriately priced; and

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

WHEREAS, the Metro Procurement Officer believes that amending the Graham Oaks JP Contract to add additional work is appropriate, and ~~that such action is in the~~ best interests of Metro, and that competitively procuring the additional work would be impractical; now therefore

~~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; and~~

BE IT RESOLVED that the Metro Council acting as the Public Contract Review Board authorizes the Chief Operating Officer or his designee to execute contract amendments to Metro's public improvements contract with JP Contractors, Inc., for the Graham Oak Nature Park improvements Project, increasing the contact amount by \$161,843.00, to \$1,645,068.50.

ADOPTED by the Metro Council Contract Review Board this \_\_\_\_ day of \_\_\_\_\_ 2010.

---

David Bragdon, Council President

Approved as to Form:

---

Daniel B. Cooper, Metro Attorney

## **STAFF REPORT**

IN CONSIDERATION OF RESOLUTION NO. 10-4109, RESOLUTION OF METRO COUNCIL, ACTING AS THE METRO CONTRACT REVIEW BOARD, FOR THE PURPOSE OF APPROVING A CONTRACT AMENDMENT FOR GRAHAM OAKS NATURE PARK DEVELOPMENT PROJECT

---

Date: January 8, 2009

Prepared by: Darin Matthews, 503 797-1626  
Rod Wojtanik, 503 797-1846

### **BACKGROUND**

An open, competitive Request for Bid (RFB) was issued for the Graham Oaks nature park project in 2009. In accordance with Metro Code, the lowest responsive, responsible bidder was selected, which was JP Contractors, Inc. of Portland, Oregon.

The project specifications and design drawings were prepared by the landscape architectural firm Greenworks, PC and adequately represented the scope of the project.

This contract was awarded on September 22, 2009 in the amount of \$1,483,225.50 and work began on September 28, 2009. The Construction Manager reports that this project has progressed as planned and that JP Contractors, Inc. has provided construction services in accordance with the contract.

Fiscal, social and environmental aspects of the Graham Oaks Nature Park project continue to be evaluated during the construction of the project. During the course of construction, a number of the design details and material choices have been reconsidered with regard to the source for products, pavement durability, long term maintenance and the user experience at the Nature Park.

The Contractor recommended, and the suggestion was accepted by the Metro Construction Manager and his managers that refinements to the pavement materials would result in a finished product that would better align with the sustainability goals of the project and reduce long term maintenance. Pavement refinements include material substitutions, adding structural steel to concrete pavement sections and installing a geo-textile fabric under the asphalt and gravel trails. These improvements will increase the structural stability and durability of the trails, minimize root penetration and weed growth through the trail bed, allow for improved accessibility for people of all abilities. The total additional costs for these pavement refinements would be \$80,963.00.

The Contractor also recommended that Metro consider a State of Oregon company as a supplier for the site furnishings for the project. It has been determined by the Metro Construction Manager and landscape architect that Natural Structures, of Baker City, Oregon can provide products that are equal to, or better than, those products specified in the Contract Documents. Natural Structures is also a HUBZone Certified Supplier. A HUBZone company is one that operates and employs people from Historically Underutilized Business Zones (HUBZones). The

federal government administers this program and designates small businesses as HUBZone certified based on the size of the company, ownership, company location and percentage of work force residence. Small businesses that are located in these economically distressed communities receive priority for Federal Government purchases in an attempt to revitalize economies and stimulate business. Baker City is a certified Rural HUBZone within the State of Oregon. Another advantage of using Natural Structures to provide these furnishings is that they are already providing a significant element to the project (eco roof picnic shelter) and product warranty issues and replacement parts would be more convenient in dealing with one manufacturer. The total additional costs for the locally supplied site furnishings would be \$1,800.00 or a 9.1% increase over those items originally specified.

Prior to the bid process, Metro secured a State of Oregon Local Government Grant for \$500,000. This grant, in addition to a favorable bid (which was under the engineer's estimate), allowed the project team to consider aspects of the nature park master plan that were neither designed nor bid based on earlier budgetary concerns. Metro staff and management have reviewed the trail network and support the development of 1,800 lineal feet of additional trails through the conifer forest area found on the south side of the site. Providing a defined, accessible trail in this area will offer access to one of the most desirable areas on the site and hopefully prevent the development of additional social trails already found in this area. The total additional costs for the additional trail development would be \$68,000.00. This work would include drainage improvements, low land crossings and viewpoints.

Metro requested that the Contractor fabricate the steel posts for the all the interpretive signage on site and prepare the concrete seat walls for placement of interpretive panel posts. The total additional costs for this work would be \$9,050.00.

Metro requested that the Contractor provide and install native trees along the eastern property line to provide privacy screening for those residences most affected by the local trail connection from the Tonquin Trail to the Park at Merryfield. The total additional cost for this work would be \$2,030.00.

The Metro Construction Manager reviewed these additional items and agreed the work is necessary and can be paid within the existing project budgets. The consulting landscape architect for the project also reviewed the requests and verified that the work is outside of the existing contract scope and reasonably priced, a conclusion supported by the Metro Procurement Officer.

The total for all change orders is \$161,843.00. There are no previous change orders. This is 10.9% of the original contract amount which is lower than industry standard for construction work in the public sector and we believe represents effective cost control and project management. While Metro's procurement rules limit construction change orders to five percent, the Oregon Attorney General's Model Rules set this amount at 20 percent.

Metro Code 2.04.058, Public Contract Amendments, requires Metro Council approval of contract amendment or change orders that exceed \$25,000 or five percent of the original contract value. 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 Sustainability Center will continue to manage and administer this contract to ensure these exhibits are constructed in accordance with the contract, including all plans and specifications. The Graham Oaks nature park project is scheduled to open in the fall of 2010.

#### **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 Graham Oaks nature park project under the direction of the Construction Manager and in accordance with schedules.
4. **Budget Impacts:** These change orders fall within budgeted contingency amounts. Total contract amount for JP Contractors will be \$1,645,068.50. The total budget for construction included in the CIP for this project is \$2,542,500.00, with a remaining contingency of \$897,431.50.

#### **RECOMMENDED ACTION**

Metro Council, acting as Public Contract Review Board, approves the attached contract amendment representing change order #1, with JP Contractors, Inc.