

BEFORE THE METRO COUNCIL CONTRACT REVIEW BOARD

RESOLUTION OF METRO COUNCIL, ACTING) RESOLUTION NO. 11-4247
AS THE METRO CONTRACT REVIEW BOARD,)
FOR THE PURPOSE OF APPROVING A) Introduced by Acting Chief Operating
CONTRACT AMENDMENT FOR THE GRAHAM) Officer Daniel Cooper with the concurrence
OAKS NATURE PARK DEVELOPMENT) of Council President Tom Hughes.
PROJECT)

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 public contract amendments that exceed five percent of the initial contract value or \$25,000; and

WHEREAS, Metro awarded the contract to construct Metro’s Graham Oaks Nature Park in Wilsonville (the “Contract”) to JP Contractors, Inc. after conducting an open competitive bid process in which JP Contractors, Inc. was determined to be the lowest responsive and responsible bidder; and

WHEREAS, the original Contract amount was \$1,483,225.50, and the Metro Council has approved two amendments to the Contract in the amount of \$161,843 and \$151,410, via Resolutions #10-4109 and #10-4167, increasing it to \$1,796,478.50; and

WHEREAS, Metro now wishes to obtain Metro Council approval for another amendment to the Contract for additional work in the amount of \$77,050, increasing the Contract amount to \$1,873,528.50. The additional work performed under these change orders was unforeseen and not part of the original Contract. The additional work elements include permit agency requirements, safety improvements, drainage improvements, improvements to reduce vandalism and long term maintenance, pavement and ADA access improvements, and additional trail improvements; and

WHEREAS, the total budget for construction included in the CIP for this project is \$2,542,500. The current Change Order request and current Contract amount would leave a remaining contingency of \$668,971.50. Therefore, the Change Order falls within the budgeted contingency and total construction budget.

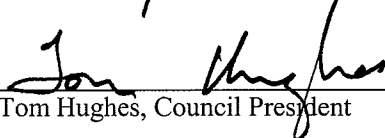
WHEREAS, Metro has determined that the additional work set forth in these change orders was necessary and appropriate, and is within the contingency budget for the project. The debits and credits to the Contract have been reviewed by the Graham Oaks construction manager and the project landscape architect and have been approved as necessary and appropriately priced; and

WHEREAS, the Metro Procurement Officer believes that amending the existing contract with JP Contractors, Inc. is appropriate and that such action is in the best interests of Metro and will better ensure a better nature park; and

WHEREAS, the sum of the prior approved contract amendment and the amendment proposed herein amounts to an 26.3% increase in the cost of the original Contract, which is within the industry-accepted standard range for complex construction projects; now therefore

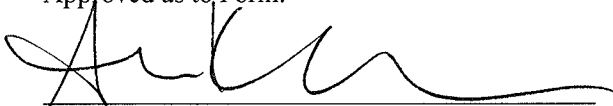
BE IT RESOLVED that the Metro Council, acting as the Public Contract Review Board, authorizes the Procurement Officer to execute contract amendments in the amount of \$77,050 with JP Contractors, Inc. for the Graham Nature Park development project.

ADOPTED by the Metro Council Contract Review Board this 7 day of April, 2011.

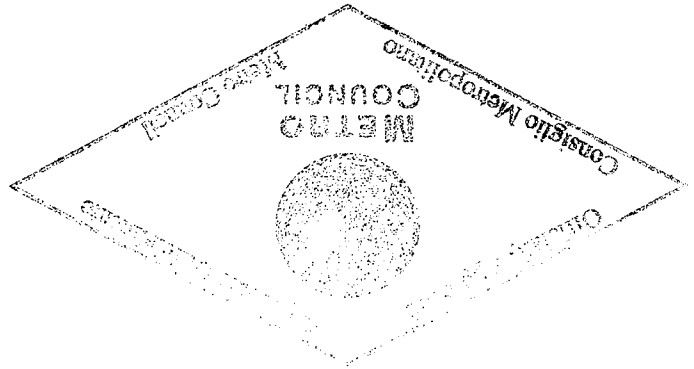


Tom Hughes, Council President

Approved as to Form:



Alison Kean Campbell, Acting Metro Attorney



STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 11-4247, RESOLUTION OF METRO COUNCIL, ACTING AS THE METRO CONTRACT REVIEW BOARD, FOR THE PURPOSE OF APPROVING A CONTRACT AMENDMENT FOR THE GRAHAM OAKS NATURE PARK DEVELOPMENT PROJECT

Date: April 7, 2011

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BACKGROUND

An open, competitive Request for Bid (“RFB”) was issued for the Graham Oaks Nature Park (“Graham Oaks”) project in 2009. In accordance with Metro Code, the lowest responsive, responsible bidder, JP Contractors, Inc. (the “Contractor”) of Portland, Oregon was awarded the contract.

The contract was awarded on September 22, 2009 in the amount of \$1,483,225.50 and work began on September 28, 2009. Graham Oaks was opened to the public on September 18, 2010, under a Temporary Occupancy Permit issued by the City of Wilsonville. The Contractor has continued to work to complete the construction punch list items necessary to secure the City of Wilsonville Permit of Final Occupancy and for Metro to grant final acceptance.

To date, Metro Council has approved two Change Orders; Change Order #1 under Resolution No. 10-4109, adopted on January 7, 2010 and Change Order #2 under Resolution No. 10-4167, adopted on July 8, 2010.

Fiscal, social and environmental aspects of the Graham Oaks project were continuously evaluated during the construction of the project. Since the last Change Order was approved, additional contingency items have come to light. During the construction project, there were also a number of revisions that were made which resulted in credits to the contract. These credit amounts are included in the Change Order request.

The total contracted amount to date for JP Contractors, Inc. is \$1,796,478.50. The total budget for construction included in the CIP for this project is \$2,542,500, with a remaining contingency of \$746,021.50. The current Change Order request is for \$77,050, which would increase the total construction contract to \$1,873,528.50. This would leave a remaining contingency amount of \$668,971.50. Therefore, the Change Order falls well within the budgeted contingency and total construction budget.

During the final months of construction and completion of the punch list items, a number of construction details and materials were evaluated in hopes of reducing long term maintenance and improving the user experience at Graham Oaks. These improvements include City of Wilsonville requirements, improved stormwater management approaches, hardscape material replacements and safety surfacing in order to prevent potential injuries. There were also revisions that resulted in credits to the contracted amount. The work, which was not required by the contract, included elimination of erosion control fencing, tree grates, split rail fencing, signage and plantings. The value of this work resulted in a credit of \$12,730.

During the City of Wilsonville’s permit inspection to grant final occupancy to Graham Oaks, the City noted that some plant material had failed. There was also a concern with the amount of bare soil as a result of un-germinated native seed. Metro provided the plant material for the project as well as the replacement plant material and the Contractor provided the installation. Metro also required the Contractor to install hydromulch to address the bare soil and erosion concerns. In order to be granted the permit of final occupancy for the park, Metro’s construction manager authorized this work to maintain

efficiency as the Contractor's crews were working in the area. The total additional cost for these improvements was \$5,630.

As part of the Regional Arts Percent for Art installation, it was determined that the art piece could be considered an attractive nuisance. The art piece is a 42" x 70", 5,000 lb. carved basalt acorn. This stone is located along one of the trails that also leads to the elementary school. Due to the size of the art piece and its location, it was deemed necessary to install a safety surfacing under the acorn to prevent injury from falls which could potentially occur from climbing on the art piece. This improvement was reviewed and approved by Metro's Risk Manager and was authorized as a Design Change during the Construction process. The total additional cost for this improvement was \$8,290.

During the contracting process, Metro authorized, under Change Order #2, an allowance of \$20,000 to be used to address unforeseen drainage needs and improvements along the Coyote Way and Legacy Creek Trails. While this was a fairly accurate estimate, the total amount needed to address drainage improvements along the entire trail network was \$30,330. The additional drainage improvements were authorized in the field to maintain construction efficiency, address standing water on the trail and utilize equipment already working in that area. The total additional cost for these improvements was \$10,330.

During the final stages of construction, Metro requested that the Contractor eliminate an existing maintenance road which was no longer needed as well as install measures to reduce the potential for vandalism and reduce the opportunity for distribution of invasive weed seed. The Contractor ripped and tilled the old gravel maintenance road. They also installed protective fencing and boulders around the sanitary lift station to prevent vehicles from driving over this fragile infrastructure. Metro also had the Contractor install concrete pads for boot scrapes. The boot scrapes are used in combination with existing interpretive signage to educate the public about the issue of invasive weeds and the role that we all play in the transfer of invasive plants to fragile ecosystems. These additional improvements were authorized in the field to maintain construction efficiencies. The total additional cost for these improvements was \$3,545.

Refinements to the pavement design and details were evaluated to reduce long term maintenance and increase ADA accessibility. Pavement refinements included material substitutions (from gravel to pavers) and the addition of accessible landing areas along the trails to provide more resting opportunities for those less-abled. These additional improvements were authorized in the field to maintain construction efficiencies. The total cost for these improvements was \$8,560.

During the design and construction of the project, Parks & Environmental Services and Sustainability Center management completed their maintenance and management plan for the park. It was determined that rather than the City of Wilsonville maintaining the site, it would be maintained by Metro staff as well as volunteers to assist with general site stewardship, trail maintenance and restoration efforts. To facilitate these efforts and those at other Metro sites, an electrical maintenance vehicle and trailer were purchased. Currently the electric vehicle and trailer are stored at Howell Territorial Park on Sauvie Island. Metro staff haul this vehicle to and from Graham Oaks on a regular basis to maintain the park and aid volunteer restoration efforts. For a perspective on the distance traveled and time it takes, a Parks staffer must drive from Metro Regional Center to Sauvie Island, hook up the trailer and load the electric vehicle, drive to Graham Oaks, and offload. This process is reversed at the end of the day. This equates to over 90 miles and three hours of travel time. A single day's use of the vehicle equates to an additional 74 pounds of CO₂ being dispensed into the atmosphere just in getting the vehicle to the site.¹ Installation of a 16'x24' maintenance building at Graham Oaks will not only reduce the use of fossil fuel and save time but it will

¹ Based on EPA Fact Sheet assuming 19.4 lbs of CO₂ are produced from one gallon of gasoline and the mileage of truck and trailer being 14 miles per gallon. <http://www.epa.gov/otaq/climate/420f05004.htm#step1>

also serve as a place to store tools and other materials to facilitate volunteer work parties and naturalist programs at the park. The total additional cost for this potential work is \$50,000.

Graham Oaks contains one of the most significant built segments of the regional Tonquin Trail which will one day connect Sherwood to the Willamette River. The trail segment through Graham Oaks has seen significant use. Metro has an interest in gathering actual trail usage data. The goal is to collect that data using trail counters to help inform the current Tonquin Trail planning process and other regional trail planning discussions as well as to support future trail funding requests. The total additional cost for the potential installation of these counters is \$2,000.

Several individuals from the community have approached Metro staff on-site and by email requesting additional places to stop, sit and enjoy the diverse habitats found at Graham Oaks. Metro operations staff and management agree that additional benches would improve the user experience and provide for increased use of the park by the elderly or those less-abled. The total additional cost for the potential installation of three benches is \$1,425.

The Metro Construction Manager, Sustainability Center Director and Parks Operations Supervisor have reviewed these additional items and agree 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 the two previous change orders resulted in a Contract amount increase of \$313,253. The current Change Order of \$77,050 brings the total Change Order amount to \$390,303 or 26.3% of the original contract amount. While this is a considerable increase in the contract amount we believe that the project team has exercised effective cost control and project management while reducing future maintenance demands and improving the user experience.

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 this project is built in accordance with the contract, including all plans and specifications.

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, Inc. will be \$1,873,528.50. The total budget for construction included in the CIP for this project is \$2,542,500, with a remaining contingency of \$668,971.50.

RECOMMENDED ACTION

Metro Council, acting as Public Contract Review Board, approves the attached contract amendment representing change order #5, with JP Contractors, Inc.