

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING)	RESOLUTION NO.95-2137
THE EXECUTIVE OFFICER TO EXECUTE)	
CHANGE ORDER NO.1 TO CONTRACT)	
NO.903221 WITH CITY OF PORTLAND FOR)	Introduced by Mike Burton
RECREATION DEVELOPMENT AT SMITH)	Executive Officer
AND BYBEE LAKES)	

WHEREAS, Contract No.903221 was executed in Fiscal Year 93-94 by and between Metro and City of Portland for the implementation of Phase I Recreation Master Plan for Smith and Bybee Lakes; and

WHEREAS, design changes different from the original contract scope of work were made to adapt to new changing policy and site conditions; and

WHEREAS, a failure in a newly-constructed trail to meet barrier-free requirements after one year of use required new surfacing material at additional costs; and

WHEREAS, additional work has now been performed as of December, 1994, and a final billing dated January 3, 1995 was received, and Change Order No. 1 is now tendered for unanticipated extra work; and

WHEREAS, funds are available within the Smith and Bybee Lakes Trust Fund to cover costs associated with the change order; now, therefore,

BE IT RESOLVED,

That the Metro Council authorizes the Executive Officer to execute Change Order No.1 to Contract No.903221 with City of Portland in a total amount not to exceed \$35,697.64 as provided in Exhibit A attached.

ADOPTED by the Metro Council this 4th day of May, 1995.


J. Ruth McFarland
Presiding Officer

EXHIBIT A

**AMENDMENT NO. 1
CONTRACT NO. 903221**

This Agreement hereby amends the above titled contract between Metro, a metropolitan service district, and City of Portland, hereinafter referred to as "Contractor".

This amendment is a change order to the original Scope of Work as follows:

- (1) Portland Bureau of Parks and Recreation staff will design observation platforms to conform to new specifications of Smith and Bybee Lakes Management Committee and Metro staff, obtain necessary permits, administer the construction contract to construct, and supervise construction.
- (2) Portland Parks will assume responsibility for contracting to a firm, selected by an acceptable public bidding process, for developing a conceptual design of an interpretive center for Smith and Bybee Lakes, including payment of services and administration of the contract..
- (3) Portland Parks staff will research and recommend options for correcting failing trail conditions on the Interlake Trail, aid in selecting the preferred option, develop specifications for a contract to implement the preferred option, and supervise the construction.

The total contract amount is hereby amended to not exceed \$123,697.64 and will expire May 30, 1995.

Except for the above, all other conditions and covenants remain in full force and effect.

In Witness to the above, the following duly authorized representatives of the parties referenced have executed this agreement:

CITY OF PORTLAND

METRO

SIGNATURE

DATE

SIGNATURE

DATE

NAME

NAME

TITLE

TITLE

50121

SEP 17 1993

INTERGOVERNMENTAL AGREEMENT

Implementation of Recreation Plan Phase I for
the Smith and Bybee Lakes Management Area

This Agreement dated this 17 day of September, 1993, is between Metro, a metropolitan service district organized under the laws of the State of Oregon and the 1992 Metro Charter, whose address is 600 N.E. Grand Avenue, Portland, Oregon 97232-2736, and the City of Portland, Bureau of Parks and Recreation, hereinafter referred to as the "City," whose address is 1120 S.W. 5th Avenue, Portland, Oregon 97204, for the period of July 1, 1993, through twelve (12) months from the date this Agreement is signed.

WITNESSETH:

Whereas, This Agreement is exclusively for Personal Services;

NOW THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

THE CITY AGREES:

1. To provide services according to Attachment A -- Scope of Work in implementation of Phase I of the Smith and Bybee Lakes Recreation Plan, including designing trails and observation structures and construction management; and
2. To develop a concept design for the interpretive center proposed for the Smith and Bybee Lakes Program as described in Attachment A -- Scope of Work. The Concept Design will be completed and submitted to Metro no later than April 1, 1994.

METRO AGREES:

- To pay, in full to the City, the invoiced sum submitted by the City to Metro for the implementation of Phase I of the Master Recreation Plan for the Smith and Bybee Lakes Management Area as described in the Scope of Work -- Attachment A. The total amount to be paid by Metro will not exceed EIGHTY THOUSAND AND NO 100THS DOLLARS (\$80,000.00). The City will submit quarterly bills to Metro containing expenditures by categories.

BOTH PARTIES AGREE:

1. That Metro's Project Manager shall be Jim Morgan, Planning Department, and he is specifically authorized to review, supervise and approve all tasks and work products as detailed in Attachment A -- Scope of Work; and

2. That the City's Project Manager shall be John Sewell, Chief Planner of the City of Portland, Bureau of Parks and Recreation. Mr. Sewell is specifically authorized to execute all project tasks and render all project services; and

3. Metro's Project Manager is authorized to convey all notices including a notice to terminate this Agreement and carry out all actions as specifically referenced herein; and

4. That the City may subcontract to accomplish the project tasks only to the extent of and with the Metro Project Manager's prior, written approval; and

5. **INDEMNIFICATION:** Both Parties shall hold harmless, indemnify, protect and defend the other and its officers, employees and agents from any and all claims, suits or actions of any nature, including, but not limited to all costs and attorney fees arising out of or related to these project activities or those of its officers or employees.

If either fails to defend or indemnify the other, that party may, at its option, bring an action to compel same or undertake its own defense.

In either event, both parties shall be responsible for all costs, expenses and attorney fees including the reasonable market value of any services provided.

6. **TERMINATION FOR CAUSE:** Metro may withhold funding and terminate this Agreement in whole, or in part, at any time prior to project completion, if Metro, in its sole discretion, determines that the City has failed to comply with the terms and conditions of this Agreement.

In the event of such action, Metro shall promptly notify the City in writing as to the circumstances and the reasonable means, if any, for resolution.

7. **TERMINATION FOR CONVENIENCE:** This Agreement may be terminated in whole, or in part, whenever both parties agree that the continuation of the project will not produce the beneficial results anticipated or results commensurate with the proposed level of funding.

If termination is required, the parties shall agree upon the terms, conditions and effective date(s) for such action, or in the case of partial termination, the specific Project aspects or activities to be abandoned.

8. **ENTIRE AGREEMENT:** This is the entire Agreement between the parties. There are no understandings, agreements or representations, oral or written, not specified herein.

No waiver, consent, modification or change of terms shall bind either party unless committed to writing and signed by both parties, and if such action is taken, it shall be effective only in the specific instance and for the specific purpose given.

9. SEVERABILITY: If any portion of this Agreement is found to be illegal or unenforceable, this Agreement shall nevertheless remain in full force and effect and the offending provision shall be stricken.

10. ASSIGNMENT: This Agreement is binding on each party, its successors, assigns and legal representative and may not, under any circumstances or conditions, be assigned or transferred by either party.

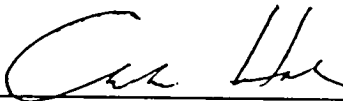
11. SITUS: The situs of this Agreement is Portland, Oregon. Any litigation over this Agreement shall be governed by the laws of the State of Oregon and shall be conducted in the Circuit Court of the State of Oregon, for Multnomah County, or, if jurisdiction is proper, in the U.S. District Court for the District of Oregon.

The City, by signature of its duly authorized representative, hereby acknowledges that it has read, understands and agrees to be bound by the terms and conditions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands on the day and year set forth below.

CITY OF PORTLAND
BUREAU OF PARKS AND RECREATION

METRO

By: 
Charlie Hales

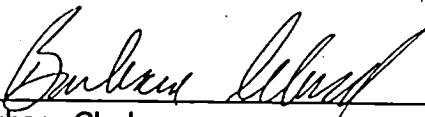
By: 

Title: Commissioner of Public Safety

Title: Director, RF

Date: 9/9/93

Date: 27 July 93

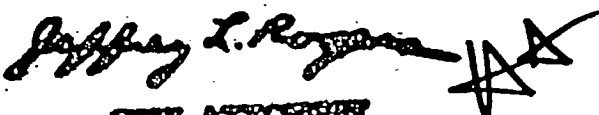
By: 
Barbara Clark

Title: Auditor

Date: 9/14/93

JWerb
e:\pc\cont\903221
07/20/93

APPROVED AS TO FORM


CITY ATTORNEY

ATTACHMENT A

SCOPE OF WORK

Implementation of Phase I Smith and Bybee Lakes Recreation Plan

Introduction

Metro is responsible for managing the Smith and Bybee Lakes Natural Area with the guidance of the Natural Resources Management Plan with funds available from the Lakes Trust Fund. Through an intergovernmental agreement, Metro contracted to the City of Portland Bureau of Parks and Recreation to develop a Master Recreation Plan for the Lakes Natural Area. Completed and adopted in 1992, the plan outlines recreation development in phases over several years, as funding allows, and as use of the area changes. Phase One is limited to the area from the parking lot off North Marine Drive to the north peninsula between the lakes. This phase will be implemented in 1993-94.

Implementation of Phase One will be through the concerted effort of Metro and Portland Parks. Portland Parks will assume primary responsibility for design of trails and observation structures. Metro will provide earth-moving equipment with operator and construction materials. Metro and Portland Parks will jointly assume responsibility for construction management. Much of the labor will be provided by a 10-member work crew with a crew supervisor. The crew will consist of at-risk youth managed by North Portland Youth Services Center and the Urban Streams Council.

Phase Three, building of an interpretive center and support structures is dependent on the availability of funds. To aid in financial planning for funding the interpretive center, a conceptual design is needed. This design will be general in its architectural renderings but sufficiently specific to the level that provides a reasonable construction cost estimate. The concept design must be based on information gathered from the potential public users while adhering to the intent of the Management Plan. The finished product should be in a form that is presentable to potential funding agencies and organizations. Portland Parks staff will assume lead responsibility in developing the concept design for the interpretive center.

Scope of Work and Schedule

Phase One - Trails and Observation Structures

Task 1 Working with Metro staff to assure compliance with intent of management objectives, Portland Parks staff will design the trails and observation decks and platform as outlined in the Recreation Plan. Plans and drawings will be made available as required for obtaining permits for construction work.

Product: Detailed schematic drawing of trails and observation structures
Completion: July, 1993

Task 2 Coordinate the logistical requirements for all phases of trail and observation structures construction. This includes obtaining cost estimates, ordering, and arranging delivery of materials. Procurements conducted by the City will follow standard contract and procurement procedures as established by City Code. Metro is responsible for capital outlay for materials and delivery costs.

Product: Delivery of appropriate construction materials at the work site.
Completion: August, 1993

Task 3 Provide guidance to the laborers in construction of trail and observation structures as needed to insure implementation is in accordance with plans. Occasional field oversight will be necessary. Hand tools for trail construction will be provided by the youth corps conducting the work.

Product: Completion of construction according to design.
Completion: September, 1993

Concept Design for Interpretive Center

Task 1 Collect and organize background information on developments to date, including review of plans, documents from committee and public meeting proceedings, and policy decisions.

Product: Background information file.
Completion: September, 1993

Task 2 Assess proposed site of interpretive center for current conditions, development opportunities and restrictions, including physical constraints, zoning and building restrictions, and required permits.

Product: Detailed site description with environmental overlays.
Completion: October, 1993

Task 3 Establish an Interpretive Center Concept Design Steering Committee that includes representatives of Friends of Smith and Bybee, Smith and Bybee Management Committee, and student representative from Roosevelt High School.

Product: Committee establishment.
Completion: September, 1993

Task 4 Survey key user groups who anticipate using the site, focusing on their needs and expectations.

Product: User group survey.
Completion: October, 1993

Task 5 Using information gathered in the tasks outlined above, a consensus on the interpretive center functions will be outlined.

Product: Consensus on interpretive center functions.
Completion: November, 1993

Task 6 Review the designs of other existing interpretive centers in the Pacific Northwest with similar functions, including available information on successes and failures in design.

Product: Review of analogous interpretive centers.
Completion: December, 1993.

Task 7 Recommend to the Steering and Management Committees the design attributes of the interpretive center that serve the desired functions and are appropriate to the site. Incorporate any suggested changes into the design concept.

Product: Recommendation of interpretive center functions.
Completion: January, 1994

Task 8 Develop site plan drawings of recommended concept design and present to the Steering and Management Committees. Incorporate suggested changes into the design.

Product: Draft site plans.
Completion: February, 1994

Task 9 Develop a final product of a narrative and drawings, including site plan and architectural drawings, and provide a display for fund-raising presentations.

Product: Site plan, architectural drawings, descriptive narrative, display.
Completion: March, 1994.

ORDINANCE 166910

*Execute intergovernmental agreement with Metro for implementation of recreation plan, phase I, for Smith and Bybee Lakes Management Plan Area.

The City of Portland ordains:

Section 1. The Council finds:

1. Metro is responsible for managing the Smith and Bybee Lakes Natural Area with guidance of the Natural Resources Management Plan and with funds available from the Lakes Trust Fund.
2. Metro contracted with the City of Portland, Parks and Recreation, to develop a Master Recreation Plan for the Lakes Natural Area.
3. The master plan was completed and adopted in 1992.
4. Metro wishes to proceed with phase I improvements for the area near North Marine Drive.
5. Metro wishes to enter into contract with Portland Parks and Recreation to design improvements and manage construction; Metro also wants Parks and Recreation to oversee the preparation of conceptual designs for an interpretive center.

NOW, THEREFORE, the Council directs:

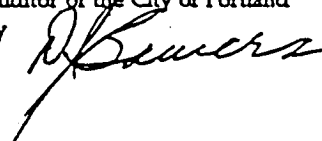
- a. The Commissioner of Public Safety and Auditor to execute the attached Agreement with Metro in a form substantially similar to that attached hereto.

Section 2. The Council declares an emergency exists because of the need to initiate and complete improvements at Smith and Bybee Lakes for the benefit and enjoyment of the public; therefore, this ordinance will become effective after its passage by Council.

Adopted by Council, SEP 1 1993

Commissioner Hales
John Sewell
August 11, 1993

Barbara Clark
Auditor of the City of Portland
By



Deputy

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 95-2137 FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO EXECUTE CHANGE ORDER NO. 1 TO CONTRACT NO. 903221 WITH CITY OF PORTLAND FOR RECREATION DEVELOPMENT AT SMITH AND BYBEE LAKES

Date: 4 May, 1995

Presented by: Jim Morgan

BACKGROUND AND ANALYSIS

The change order to Contract No. 903221 between Metro and City of Portland is requested to pay the City the cost for services in the amount of \$35,697.64. The original contract is in the form of an intergovernmental agreement (IGA) and compensates the City for assistance in implementing components of Phase I of the *Recreation Master Plan for Smith and Bybee Lakes*.

This agreement evolved for two reasons:

- (1) Metro is required to offer the City of Portland first right of refusal for contract services that develop and manage recreation facilities in the Smith and Bybee Lakes Management Area, pursuant to the *Natural Resources Management Plan for Smith and Bybee Lakes* and the "St. Johns Landfill Agreement", both adopted by Metro and the City in November, 1990; and,
- (2) at the time of execution of the IGA (September 1993), Metro had no operational branch in its Greenspaces Program capable of implementing the *Recreation Master Plan*.

The scope of work calls for the City to design and manage construction of trails and wildlife observation structures and to develop a concept design for the interpretive center proposed for the lakes area. The original agreement called for Metro to compensate the City \$80,000. An administrative amendment increased this total to \$88,000 in June 1994. Change Order No. 1 would increase compensation to \$123,697.64

Reasons for the increase in costs of implementing these components of Phase I of the Recreation Master Plan are: (1) changes in the design of the observation platforms, (2) management of the interpretive center concept design contract by Portland Parks, and (3) need for the emergency reconstruction of the interlakes trail due to failure of the original trail surface. An explanation for each is provided below.

Observation Platforms

The original cost estimate for the two observation platforms was \$20,000. This assumed open wooden platforms with limited access. Based on recommendations of the Smith and Bybee Lakes Management Committee and Metro Council the design was improved to provide barrier-free access, year-round protection from weather, and add additional

screening for wildlife viewing. The new design includes all-metal construction material, steel ramps to protect the wetlands, a roof and siding to protect users from the weather while masking their presence from wildlife. Construction is now complete and the platforms are meeting design objectives. Actual cost was \$42,000. The City managed design and construction of the platforms.

Interpretive Center Concept Design

Development of the concept design of the interpretive center for the lakes area was budgeted for joint administration by the City and Metro. To expedite the process, architectural procurement and contract management was fully administered by the City. The City also engaged a major effort to involve the community in the design of the interpretive center through public workshops and input through a citizens advisory committee. The City's assumption of full responsibility for this component added approximately \$15,000 to the IGA cost beyond the original estimate. The final concept design was approved by the Metro Council in November 1994.

Trail Failure and Reconstruction

The original pedestrian path included paving with crushed green glass cullet bonded with a stabilizer. Use of the crushed green glass in trail construction attempted to utilize an environmentally benign portion of the waste stream that currently has little market value. While acknowledged to be an experimental surface during Management Committee and Council deliberations on the Recreation Master Plan, the risk was considered reasonable in light of larger Metro waste reduction and reuse goals and policies and was judged plausible since it met aggregate specifications and early tests.

Upon completion of construction of the original trail, a project managed by the City, barrier-free use was provided. However, within one year, the trail had deteriorated and wheel-chair users were unable to use the trail. Options for modifying the existing trail to meet standards were sought that included lab and field testing of alternative surfaces and bonding agents. By the end of the 1994 construction season, it was determined that the only viable surface to meet accessibility standards in the lakes environment was asphalt paving. The trail was reconstructed in November 1994. Approximately \$7,000 in additional expenditures were incurred by the City in the research and testing of trail surfaces and construction site management for trail reconstruction.

FISCAL IMPACT

Payment in the amount of \$88,000 was remitted to the City in FY 1993-94 for work completed. The additional compensation in the amount of \$35,697.64 is well within unexpended miscellaneous professional services appropriations in the adopted FY 1994-95 budget for the Smith and Bybee Lakes Trust Fund. There is no fiscal impact. The Fund is also experiencing higher than anticipated interest earnings on unappropriated balance for the current fiscal year due to improved interest rates on investments.

EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends adoption of Resolution No. 95-2137.