

# PDC

## PORTLAND DEVELOPMENT COMMISSION

**DATE:** January 29, 2009  
**TO:** Board of Commissioners  
**FROM:** Bruce A. Warner, Executive Director  
**SUBJECT:** Report Number 09-14  
Waterfront Park and MAX Retail Construction Contract Amendments

### **EXECUTIVE SUMMARY**

#### **BOARD ACTION REQUESTED**

Adopt Resolution No. 6669

Adopt Resolution No. 6670

#### **ACTION SUMMARY**

These actions will authorize an increase to the construction contracts for the Waterfront Park and the MAX Retail / Burnside Bridge improvement projects (Projects):

- Brown Contracting Contract increase of \$359,857, from \$10,261,236 to \$10,621,093
- Cedar Mill Construction Contract increase of \$215,449, from \$951,214 to \$1,166,663
- Total increase for both Brown and Cedar Mill: \$575,306

Several causes have led to the cost increases, including:

- Increased costs for utility connections
- Unforeseen subsurface conditions in Waterfront Park and MAX Retail
- Design related issues, including drawing errors and omissions that resulted in increased design fees and additional Portland Parks & Recreation (PP&R) staff time
- Recent unforeseen weather impacts

The Projects are under a compressed schedule, to accommodate the Portland Saturday Market move to Waterfront Park in time for their 2009 season.

#### **PUBLIC BENEFIT**

The Projects are part of the Ankeny Burnside Development Framework adopted by the Board on December 13, 2006 (Resolution #6420), and implementation supports the permanent home for Portland Saturday Market, Mercy Corps World Headquarters (80,000 square feet, \$37 million historic rehabilitation and new construction), the White Stag / University of Oregon Portland Center (133,000 square feet, \$33 million historic rehabilitation) and the disposition of Block 8 between NW Naito Pkwy., 1<sup>st</sup> Ave., Couch and Davis (anticipated historic rehabilitation and new construction).

**This action will support the following PDC goals:**

- Sustainability and Social Equity
- Healthy Neighborhoods
- A Vibrant Central City
- Strong Economic Growth and Competitive Region
- Effective Stewardship over our Resources and Operations, and Employee Investment

**PUBLIC PARTICIPATION AND FEEDBACK**

Ankeny Burnside Public Improvements Project Advisory Committee members and neighborhood stakeholders met on December 10, 2008, to discuss the cost increases as outlined in this report. The attendees' consensus strongly supported completion of the Projects, as well as the importance of the follow-on Ankeny Square restroom project, as vital to the success of the Ankeny Burnside Development Framework implementation. PDC staff also briefed the Old Town Chinatown Visions Committee, the Old Town Chinatown Neighborhood Association, and their respective Joint Land Use Committee, all of whom continue to support completion of the Projects and understand the opportunity costs.

**CONCURRENCE WITH ADOPTED PLANS AND POLICIES**

This action is consistent with PDC Local Contract Review Board Rule VI-A.2 requiring Board approval of contracts that exceed the Executive Director's delegated expenditure authority of \$500,000.

**FINANCIAL IMPACT**

The Projects' contract increases totaling \$575,306 will be funded from the Downtown Waterfront Urban Renewal Area. Most design cost increases and PP&R staff time will be funded by PP&R (\$250,000) and Wells Fargo Bank (\$15,000).

This action would reduce available tax increment for other Downtown Waterfront projects including:

- New development on Block 8 (Ankrom Moisan)
- Additional funding for Block 33 (Asian grocery store and workforce housing)
- Business Finance and Storefront resources

Neighborhood stakeholders understand the trade-offs, and support completion of these investments in the public realm.

**RISK ASSESSMENT**

The Projects continue to have financial risk of additional unforeseen costs. Staff has an 85% confidence level in completing the Project with the requested contract increases. The Max Retail / Burnside Bridge project has an additional financial risk until the completion of ground lease negotiations between University of Oregon, Portland Bureau of Transportation and Multnomah County. If the ground lease agreement is not completed soon, Multnomah

County will not issue permits to complete construction, resulting in additional construction standby or restoration costs. There are potential legal risks due to PDC's obligation under the Mercy Corps Disposition and Development Agreement. Finally, there is a Public Trust risk if PDC does not complete the Projects to support the private development already completed, under construction, and in negotiation for disposition and development.

### **WORK LOAD IMPACT**

The work required to implement these actions is already incorporated into existing work plans for project staff and will not require additional staff.

### **ALTERNATIVE ACTIONS**

The Board could elect to not approve one or both of the contract amendments, requiring PDC to reduce the scope of one or both of the Projects. The advanced stage of construction makes scope reduction infeasible. Staff has performed all possible value engineering efforts. One of the two Projects, or the follow-on Ankeny Square restroom project would require termination. Termination or substantial modification of the scope of the Waterfront Park and/or the Max Retail projects currently underway could expose PDC to claims under the terms and conditions of one or both contracts

### **CONCURRENCE**

PP&R concurs with this action. PDC project staff has also collaborated with the Downtown Waterfront URA Team. Portland Bureau of Transportation and Multnomah County concur with the action for the MAX Retail space subject to final ground lease agreement.

## **BACKGROUND**

The contracts with Brown and Cedar Mill were approved on May 28, 2008, as part of the Intergovernmental Agreement with PP&R (Resolution #6593). The contract with Brown Contracting was amended on December 4, 2008, to add the Bureau of Environmental Services (BES) Odor Control Facility project (Resolution #6651). The amendment was fully funded by BES.

The schedule to complete Waterfront Park and MAX Retail / Burnside Bridge improvements was driven by the White Stag / University of Oregon and Mercy Corps private development. The accelerated schedule resulted in insufficient construction drawing detail and receipt of final Bureau of Development Services building permits after bids were received. PP&R is contributing an additional \$250,000 to help cover construction drawing completion and additional PP&R staff time. Complex site issues, unforeseen subsurface site conditions, and weather impacts also contributed to cost increases greater than the original 10% contingency of approximately \$800,000. At 60% construction completion, the remaining contingency is not sufficient to cover known and outstanding anticipated construction exposure.

Examples of unforeseen subsurface conditions include unknown abandoned and active gas lines and electrical conduits, unknown abandoned vaults and portions of the old Hwy 99 Harbor Drive roadway. The December snow storm also contributed to cost increases. The other significant cost increase resulted from utility hook-up costs being significantly higher at both

Waterfront Park and MAX Retail. Negotiations with PGE continue to reduce the PDC-borne portion of these upgrade costs and will most likely require further negotiations between the City and PGE. As part of building code requirements for exiting the Max Retail space, the ATM machine will be reconfigured with 50% of the funds provided by Wells Fargo.

**ATTACHMENTS:**

- A. DTWF URA Financial Summary
- B. Project Summary and Map

## URA FINANCIAL SUMMARY

### Financial Summary

#### Fund Summary - Five-Year Budget Projections

	<i>Revised FY 2007-08</i>	<i>Adopted FY 2008-09</i>	<i>FY 2009-10 Forecast</i>	<i>FY 2010-11 Forecast</i>	<i>FY 2011-12 Forecast</i>	<i>FY 2012-13 Forecast</i>
<b>Downtown Waterfront URA</b>						
<b>Resources</b>						
Beginning Fund Balance	5,651,973	21,783,972	6,315,531	-1,803,217	-1,362,801	-889,555
Budgeted Transfers	1,947,303	1,643,986	0	0	0	0
Interest - City Invest Pool	600,000	279,607	100,000	0	0	0
Loans - Interest Earned	340,095	350,000	350,000	0	0	0
Loans - Principal Collection	1,503,000	2,900,000	350,000	0	0	0
Real Property Sales	5,775,000	425,000	6,625,000	0	0	0
Tax Increment - L-T Debt	45,630,000	0	2,156,092	470,656	477,246	473,925
Tax Increment - S-T Debt	7,409,982	0	0	0	0	0
<b>Total Fund Resources</b>	<b>68,857,353</b>	<b>27,382,565</b>	<b>15,896,623</b>	<b>-1,332,561</b>	<b>-885,555</b>	<b>-415,630</b>

### Requirements

Project Expenditures (does not include Personal Services or Indirect Cost)

<b>Development</b>						
10025 - DTWF OT/CT Streetscape	25,000	0	0	0	0	0
10213 - DTWF A/B Property Redev	9,900,000	0	4,000,000	0	0	0
10214 - DTWF Fire St Land/Cnst	35,000	1,000,000	0	0	0	0
10215 - DTWF A/B Public Imprvt	2,239,738	9,450,000	0	0	0	0
10216 - DTWF Multnomah County	9,200,000	200,000	0	0	0	0
10219 - DTWF Retail Loan Program	500,000	0	0	0	0	0
10220 - DTWF A/B Historic Pres	120,000	410,000	0	0	0	0
10221 - DTWF Transit Mall Redev	250,000	50,000	0	0	0	0
11234 - DTWF Burnside/Couch	800,000	0	0	0	0	0
11237 - DTWF Union Station Mgmt	440,000	0	0	0	0	0
11244 - One Waterfront Place	5,000	0	0	0	0	0
11601 - DTWF Comm Outreach	5,000	0	0	0	0	0
13080 - DTWF Historic Pres DOS	50,000	0	0	0	0	0
13084 - DTWF U&R Redev	300,000	0	0	0	0	0
13130 - DTWF Union Station Environ	50,000	0	0	0	0	0
13152 - CDBG Home Rehab C/W -test	30,000	0	0	0	0	0
14205 - DTWF White Stag Seismic	228,090	0	0	0	0	0
14206 - DTWF Seismic Loans	2,117,000	1,462,500	0	0	0	0
16306 - South OT/CT Redevelopment	450,000	350,000	10,000,000	0	0	0
16309 - DTWF RiverPlace Environ	0	0	1,400,000	0	0	0
16310 - DTWF Signage & Lighting	60,000	0	0	0	0	0
<b>Development Total</b>	<b>26,804,828</b>	<b>12,922,500</b>	<b>15,400,000</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Economic Development</b>						
11022 - DTWF Business Retention	100,000	0	0	0	0	0
12202 - DTWF Storefront Grants	545,679	517,000	0	0	0	0
70011 - DTWF Business Finance	4,106,323	1,000,000	0	0	0	0
<b>Economic Development Total</b>	<b>4,752,002</b>	<b>1,517,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Housing</b>						
32116 - DTWF Blanchet House	1,000,000	0	0	0	0	0
34503 - MFH - Hotel Alder	7,914	0	0	0	0	0
34504 - DTWF Rich/Estate	530,086	0	0	0	0	0
37916 - DTWF Hsg Policy/Planning	5,000	5,000	0	0	0	0
80032 - DTWF Musolf Manor	4,000,000	300,000	0	0	0	0
80033 - DTWF Westshore	309,500	0	0	0	0	0
80034 - DTWF Community Facilities	610,000	0	0	0	0	0
80035 - DTWF Aff Homeownership	0	2,500,000	1,500,000	0	0	0
80036 - DTWF Yards At Union Square	3,700,000	0	0	0	0	0
80037 - Grove Apartments	5,200,000	0	0	0	0	0

**Financial Summary**

**Fund Summary - Five-Year Budget Projections**

	<i>Revised FY 2007-08</i>	<i>Adopted FY 2008-09</i>	<i>FY 2009-10 Forecast</i>	<i>FY 2010-11 Forecast</i>	<i>FY 2011-12 Forecast</i>	<i>FY 2012-13 Forecast</i>
<b>Downtown Waterfront URA</b>						
80038 - Downtown Access Center	500,000	0	0	0	0	0
80039 - 333 Oak	1,650,000	690,000	0	0	0	0
80040 - DTWF Affordable Homeownership	500,000	0	0	0	0	0
80041 - 3rd & Oak Parking Oblig	0	51,840	51,840	30,240	0	0
Housing Total	18,012,500	3,546,840	1,551,840	30,240	0	0
<b>Central Services</b>						
59155 - DTWF Debt Management	50,000	50,000	0	0	0	0
Central Services Total	50,000	50,000	0	0	0	0
<b>Executive</b>						
60000 - DTWF Westside/Central City	202,209	75,000	48,000	0	0	0
Executive Total	202,209	75,000	48,000	0	0	0
<b>Total Project Expenditures</b>	<b>49,821,539</b>	<b>18,111,340</b>	<b>16,999,840</b>	<b>30,240</b>	<b>0</b>	<b>0</b>
Operating Transfers Out	0	80,000	0	0	0	0
Personal Services	31,791	0	0	0	0	0
Indirect Cost	6,219,879	2,875,694	700,000	0	0	0
<b>Total Fund Expenditures</b>	<b>56,073,209</b>	<b>21,067,034</b>	<b>17,699,840</b>	<b>30,240</b>	<b>0</b>	<b>0</b>
Contingency	0	6,315,531	0	0	0	0
Ending Fund Balance	12,784,144	0	-1,803,217	-1,362,801	-885,555	-415,630
<b>Total Requirements</b>	<b>68,857,353</b>	<b>27,382,565</b>	<b>15,896,623</b>	<b>-1,332,561</b>	<b>-885,555</b>	<b>-415,630</b>

## PROJECT SUMMARY

- Project Name:** Ankeny / Burnside Public Realm Improvements
- Description:** Construction of Waterfront Park for Portland Saturday Market’s new home and water feature, and public safety improvements to Burnside Bridge MAX Station and the underside of the Burnside Bridge.
- Location:** Ankeny / Burnside
- URA:** Downtown Waterfront
- Current Phase:** Implementation
- Next Milestone:** Substantial Completion
- Completion Target:** Portland Saturday Market occupancy - April 3, 2009  
Final construction stage - June, 2009
- Outcome:** Revitalization of the Ankeny / Burnside area pursuant to recommendations which were proposed through the Ankeny / Burnside Development Framework planning process.

**Site/Project Map:**

