

Portland, Oregon

# FINANCIAL IMPACT and PUBLIC INVOLVEMENT STATEMENT For Council Action Items

(Deliver original to Financial Planning Division. Retain copy.)

1. Name of Initiator Mark Hutchinson		2. Telephone No. 503-823-7113	3. Bureau/Office/Dept. BES / Construction
4a. To be filed (hearing date):  April 24, 2013	4b. Calendar (Check One) Regular <input type="checkbox"/> Consent <input checked="" type="checkbox"/> 4/5ths <input type="checkbox"/>		5. Date Submitted to Commissioner's office and FPD Budget Analyst:
6a. Financial Impact Section: X Financial impact section completed		6b. Public Involvement Section: X Public involvement section completed	

**1) Legislation Title:**

Amend contract with Emery & Sons Construction, Inc. for claim settlement and final payment. Project No. E09115  
(Ordinance: Amend Contract No. 30001207) (estimated amount \$177,640.02)

**2) Purpose of the Proposed Legislation:**

Increase authorized contract amount and issue Change Order in order to pay negotiated settlement amount and make final payment to the Contractor.

**3) Which area(s) of the city are affected by this Council item? (Check all that apply—areas are based on formal neighborhood coalition boundaries?)**

- |   |                                    |                                    |                                |
|---|------------------------------------|------------------------------------|--------------------------------|
| <input type="checkbox"/> City-wide/Regional | <input type="checkbox"/> Northeast | <input type="checkbox"/> Northwest | <input type="checkbox"/> North |
| <input type="checkbox"/> Central Northeast  | <input type="checkbox"/> Southeast | X Southwest                        | <input type="checkbox"/> East  |
| <input type="checkbox"/> Central City       |                                    |                                    |                                |

**FINANCIAL IMPACT****4) Revenue: Will this legislation generate or reduce current or future revenue coming to the City? If so, by how much? If so, please identify the source.**

No

**5) Expense: What are the costs to the City as a result of this legislation? What is the source of funding for the expense? (Please include costs in the current fiscal year as well as costs in future years. If the action is related to a grant or contract please include the local contribution or match required. If there is a project estimate, please identify the *level of confidence*.)**

The negotiated cost of the settlement is \$468,915.00, which will be paid from the Sewer System Operating Fund, FY 12-13 Budget, Bureau of Environmental Services, WBS Element E09115.

6) Staffing Requirements:

186000

- Will any positions be created, eliminated or re-classified in the current year as a result of this legislation? (If new positions are created please include whether they will be part-time, full-time, limited term, or permanent positions. If the position is limited term please indicate the end of the term.)

No

- Will positions be created or eliminated in *future years* as a result of this legislation?

No

*(Complete the following section only if an amendment to the budget is proposed.)*

7) Change in Appropriations (If the accompanying ordinance amends the budget please reflect the dollar amount to be appropriated by this legislation. Include the appropriate cost elements that are to be loaded by accounting. Indicate "new" in Fund Center column if new center needs to be created. Use additional space if needed.)

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount

[Proceed to Public Involvement Section — REQUIRED as of July 1, 2011]

PUBLIC INVOLVEMENT

186000

8) Was public involvement included in the development of this Council item (e.g. ordinance, resolution, or report)? Please check the appropriate box below:

☐ YES: Please proceed to Question #9.

☒ NO: Please, explain why below; and proceed to Question #10.

Public Involvement provided valuable service before and during construction of the project, but were not involved in the settlement negotiation process.

9) If "YES," please answer the following questions:

a) What impacts are anticipated in the community from this proposed Council item?

b) Which community and business groups, under-represented groups, organizations, external government entities, and other interested parties were involved in this effort, and when and how were they involved?


c) How did public involvement shape the outcome of this Council item?

d) Who designed and implemented the public involvement related to this Council item?

e) Primary contact for more information on this public involvement process (name, title, phone, email):

10) Is any future public involvement anticipated or necessary for this Council item? Please describe why or why not.

No. This Ordinance provides funding for the settlement agreement and final payment to the Contractor, after which the contract will be closed.

  
Dean Marriott, Director, Bureau of Environmental Services

APPROPRIATION UNIT HEAD (Typed name and signature)



# CITY OF PORTLAND ENVIRONMENTAL SERVICES



1120 SW Fifth Avenue, Room 1000, Portland, Oregon 97204 ■ Charlie Hales, Mayor ■ Dean Marriott, Director

City Council  
Agenda Item  
Staff Supplemental Report

186000

TO: Mayor Charlie Hales  
THROUGH: Chad Stover

FROM: Mark Hutchinson

DATE: March 27, 2013

RE: Amend contract with Emery & Sons Construction, Inc. for claim settlement and final payment. Project No. E09115 (Ordinance: Amend Contract No. 30001207) (estimated amount \$177,640.02)

Requested Council Hearing Date: April 24, 2013

## I. RECOMMENDATION

Amend contract with Emery & Sons Construction, Inc. for claim settlement and final payment (Ordinance: Amend Contract No. 30001207)

## II. BACKGROUND

Emery & Sons Construction, Inc. entered into Contract No. 30001207, effective March 15, 2010 with the City to construct the Fanno Basin Pump Station Force Main: Garden Home Section project. This project replaced the existing 32-inch HDPE pressure line with two side-by-side 30-inch welded steel pressure lines from the Fanno Basin Pump Station (on SW 86<sup>th</sup> Avenue, near Scholls Ferry Road) to SW 69<sup>th</sup> Avenue and Railroad Street, just off Multnomah Boulevard. This project is one part of a program to replace and upsize the entire pressure line and to increase the capacity of, and construct improvements at, the Fanno Pump Station.

Timely completion of this project was critical, as failure to complete the pressure line and restart the Pump Station would result in the need to divert sewage to Clean Water Services during the rainy season and pay CWS a fee for this service. During construction, multiple conflicts with unexpected buried utilities were encountered, some resulting in the replacement of substantial sections of sewer and water pipelines. Other jurisdictions, including Clean Water Services, Washington County and the City of Beaverton asserted construction requirements that were beyond what was expected by the Contractor and BES. To meet these demands and attempt to stay on schedule, the Contractor eventually had five crews working on the project site at once, substantially changing their means and schedule for construction.

After construction was complete, Emery submitted a claim (a "Request for Equitable Adjustment") in the amount of \$1,070,035.60, which was largely comprised of costs for lost productivity and time extension on the project. After a period of analysis and negotiations, a settlement was reached, for \$468,915.00.

### III. FINANCIAL IMPACT

This amendment will increase the authorized contract amount by \$177,640.02 above what was authorized by Ordinance 185016 and will result in a Change Order of \$466,128.98 being written to Emery to pay the settlement. Funds are available in the Sewer System Operating Fund, FY 12-13 Budget, Bureau of Environmental Services, WBS Element E09115.

### IV. LEGAL ISSUES

No legal issues related to the proposed amendment have been identified.

### V. CONTROVERSIAL ISSUES

No controversial issues related to the proposed amendment have been identified.

### VI. LINK TO CURRENT CITY POLICIES

This project is consistent with BES strategic planning and the BES CIP process. Construction was performed in accordance with the City of Portland Standard Construction Specifications (with some minor modifications as required while working in other jurisdictions such as Washington County and the City of Beaverton). The settlement was achieved with the assistance of the City Attorney's office.

### VII. CITIZEN PARTICIPATION

Public outreach was performed by the Public Involvement staff prior to and during construction, but there was no citizen participation during the negotiation process.

### VIII. OTHER GOVERNMENT PARTICIPATION

We coordinated with other affected jurisdictions during construction, but there was no other government participation during the settlement negotiations.

### IX. FINANCIAL IMPACT ON LOCAL ECONOMY

IF APPLICABLE, PROVIDE INFORMATION ON ESTIMATED NUMBER OF JOBS CREATED BY THIS ACTION

This project maintained local construction industry jobs. It is not known if new jobs were created.

IF THIS ACTION IS CONTRACT-RELATED, PROVIDE INFORMATION ON  
M/W/ESB PARTICIPATION (NUMBER AND PERCENTAGE)

During construction, Emery utilized five M/W/ESB firms, in the amount of  
\$791,041. This represents 12.49% of the original contract and 9.22% of the final  
contract value.

- X. IF THIS IS A CONTRACT, DOES CONTRACTOR HAVE A CURRENT BUSINESS  
LICENSE? YES  
WHAT IS THEIR BUSINESS LICENSE NUMBER? 388018  
IS THEIR ACCOUNT WITH THE CITY CURRENT? YES  
IF NOT, HOW MUCH IS OWING? \_\_\_\_\_