

ORDINANCE No. 186000

Amend contract with Emery & Sons Construction, Inc. for claim settlement and final payment for the Fanno Basin Pump Station Force Main: Garden Home Section Project No. E09115 for an estimated amount of \$177,640 (Ordinance; amend Contract No. 30001207)

The City of Portland ordains:

Section 1. The Council finds:

1. Emery & Sons Construction, Inc., (Emery) was issued a contract to construct the FABA Pump Station Force Main: Garden Home Section under Contract No. 30001207 with an amended contract amount of \$8,124,085.19 and an amended completion date of July 1, 2011. Emery has earned \$8,111,516.04 for work performed on the project to date.
2. Emery was under pressure to complete the construction on time, both to meet their contract and because the Fanno Basin Pump Station had to be re-started by November 1st, 2010, so that BES would not be charged by Clean Water Services for diversion of sewage to their facilities while the Pump Station was not operating during the rainy season. However, during the course of construction, multiple changes to the work, unforeseen utility conflicts and requirements imposed by other agencies including Clean Water Services, Washington County and the City of Beaverton delayed the course of construction and caused Emery to bring additional crews to the project and change their proposed means and schedule of performing the work.
3. As a result of the changed and extra work noted in item 2, above, Emery filed a Request for Equitable Adjustment in the amount of \$1,070,035.60, largely based on Lost Productivity (\$302,927.22) and Time Extension (\$564,294.16) costs.
4. A negotiated settlement was reached, with the assistance of the City Attorney, in the amount of \$468,915.00. This, plus the amount earned to date, will bring the total contract value to \$8,577,640.02. A copy of the settlement document ("Release of Claims") is attached.
5. The estimated cost is \$177,640.02, which is the difference between the total final contract amount of \$8,577,640.02 and the maximum contract value of \$8,400,000 authorized by Ordinance #185016. Funds are available in the Sewer System Operating Fund, FY 12-13 Budget, Bureau of Environmental Services, WBS Element E09115.

NOW, THEREFORE, the Council directs:

- a) The Commissioner-in-Charge is authorized to execute an amendment to Contract No. 30001207 with Emery & Sons Construction, Inc for the purpose described in Section 1, in the amount of \$177,640.02
- b) The Director of the Bureau of Environmental Services, or his designee, is authorized to sign the Release of Claims agreement with Emery & Sons on behalf of the City of Portland.

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- c) The Director of the Bureau of Environmental Services, or his designee, is authorized to execute a Change Order to Contract No. 30001207 with Emery & Sons Construction, Inc., in the amount of \$466,128.98, along with the release of \$2,786.02 of retainage previously withheld, to pay the agreed settlement amount of \$468,915.00.
- d) The Mayor and Auditor are hereby authorized to draw and deliver warrants chargeable to the Sewer System Operating Fund Budget when demand is presented and approved by the proper authority.

Passed by the Council, MAY 01 2013
Charlie Hales
Office of the Mayor

Mark Hutchinson
March 27, 2013

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LaVonne Griffin-Valade
Auditor of the City of Portland
By


Deputy

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Agenda No. **186000**
ORDINANCE NO.

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)

for the Fanno Basin Pump Station Force Main: Garden Home Section

INTRODUCED BY Commissioner/Auditor: Mayor Hales	CLERK USE: DATE FILED <u>APR 19 2013</u>
COMMISSIONER APPROVAL Mayor—Finance and Administration - Hales	LaVonne Griffin-Valade Auditor of the City of Portland By: <u>[Signature]</u> Deputy ACTION TAKEN: APR 24 2013 PASSED TO SECOND READING MAY 01 2013 2 P.M.
Position 1/Utilities - Fritz	
Position 2/Works - Fish	
Position 3/Affairs - Saltzman	
Position 4/Safety - Novick	
BUREAU APPROVAL Bureau: Environmental Services Bureau Head: <u>[Signature]</u>	
Prepared by: Mark Hutchinson Date Prepared: March 27, 2013	
Financial Impact & Public Involvement Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/> EA	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Council Meeting Date April 24, 2013	
City Attorney Approval: <u>CF</u>	

AGENDA
TIME CERTAIN <input type="checkbox"/> Start time: _____ Total amount of time needed: _____ (for presentation, testimony and discussion)
CONSENT <input checked="" type="checkbox"/>
REGULAR <input type="checkbox"/> Total amount of time needed: _____ (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	✓	
2. Fish	✓	
3. Saltzman	✓	
4. Novick	✓	
Hales	✓	