## **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 1<sup>st</sup>, 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, Charlie Hales Office of the Mayor

MAY 01 2013

Mark Hutchinson March 27, 2013

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LaVonne Griffin-Valade Auditor of the City of Portland By Ausan Pauxans Deputy

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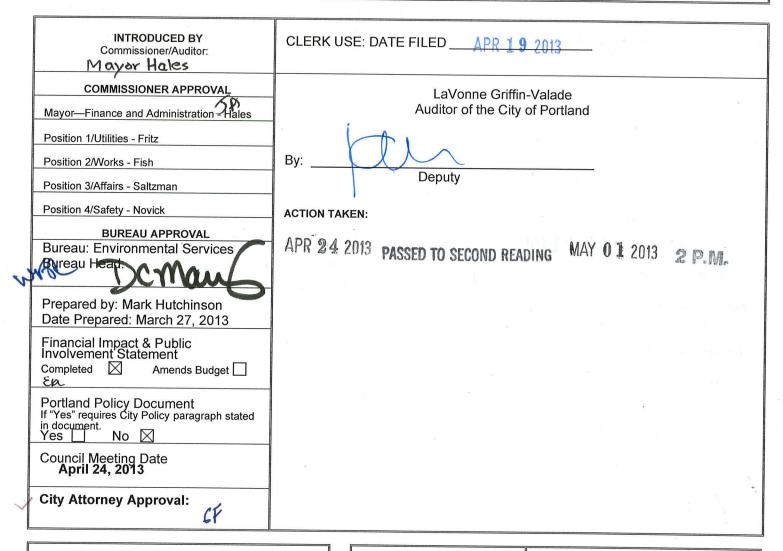
Agenda No. 186000

Title

For the Fanno Basin Pump station Force Main: Garde

V140

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)



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TIME CERTAIN

Start time: \_\_\_\_

Total amount of time needed: \_\_\_\_\_\_(for presentation, testimony and discussion)

CONSENT 🖂

**REGULAR** Total amount of time needed: (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:			
		YEAS	NAYS	
1. Fritz	1. Fritz	~		
2. Fish	<mark>2.</mark> Fish	V		
3. Saltzman	3. Saltzman	i		
4. Novick	4. Novick			
Hales	Hales	~		