

ORDINANCE No. 189232

*Authorize the Director of Portland Parks and Recreation to execute the Sixth Amendment to the Thomas Cully Park development agreement to allow the transfer of Department of Environmental Quality and Multnomah County funds to Verde (Ordinance; amend Contract No. 30002864)

The City of Portland ordains:

Section 1. The Council finds:

1. Ordinance no. 185428 (passed on June 20, 2012) authorized the original agreement between PP&R and Verde, for the partnership in the fundraising, design, development and on-going maintenance of Thomas Cully Park (“the project”) which had anticipated construction costs in excess of \$3.7M. The original agreement (Contract no. 30002864) was entered on July 17, 2012 and fully executed on July 23, 2012.
2. Verde undertook fundraising and grant funding between 2012 through 2014.
3. Ordinance no. 186665 (passed on June 18, 2014) authorized the *Amended and Restated Agreement* regarding the parties’ partnership in the project. The *Amended and Restated Agreement* was entered on June 18, 2014 and fully executed on June 30, 2014, and obligated PP&R for contribution of \$1,250,000 towards project costs. The *Amended and Restated Agreement* was deemed the first amendment to Contract no. 30002864.
4. On June 18, 2016, the parties entered into the *First Amendment to the Amended and Restated Agreement* (deemed amendment 2 to Contract no. 30002864) to allow for PP&R to serve as fiscal sponsor on third party grants to Verde and to direct multiple grant funds received by PP&R to the project. On May 9, 2017, the parties mutually executed the *Second Amendment to the Agreement* (deemed amendment 3 to Contract no. 30002864) to contribute \$4,000,000 of Parks System Development Charge funds to the project. On December 1, 2017, the parties executed the *Fourth Amendment to the Agreement* (amendment 4 to Contract no. 30002864) to expand the scope of the project and to increase compensation to Verde in the amount of \$89,350 for the extra scope of work. On July 24, 2018, the parties executed the *Fifth Amendment to the Agreement* (amendment 5 to Contract no. 30002864) to contribute an additional \$1,700,000 of Parks System Development Charge funds to the project.
5. Verde is near the final stages of the Cully Park Project scope of work.
6. PP&R through an Intergovernmental Agreement with DEQ (“DEQ #21-19 - Cully Park/KFD Landfill Gas Probe and Stormwater System Upgrades”) received DEQ funds for modification and improvement of the existing landfill infrastructure at Thomas Cully Park in the amount of \$526,233. Verde is PP&R’s subcontractor in the City construction work related to the landfill infrastructure, and PP&R desires to use the DEQ funds for compensation to Verde for the work it performs. The parties desire to amend Contract no. 30002864 to reflect this additional compensation.

7. As reflected in the *First Amendment to the Amendment and Restated Agreement*, Verde was originally awarded a \$70,000 grant from Multnomah County in fiscal year 2015-16 to which PP&R served as a fiscal sponsor. Multnomah County issued another grant award to Verde in fiscal year 2016-17 of an additional \$70,000 to which PP&R will continue to serve as the fiscal sponsor. The parties desire to amend Contract no. 30002864 to reflect this additional project funding source.
8. The *Sixth Amendment to the Agreement* memorializes the changes to the parties' project understanding.

NOW, THEREFORE, The Council Directs:

- a. The Director of the Portland Parks & Recreation is authorized to execute the *Sixth Amendment to the Agreement*, in the form substantially similar to the Exhibit A attached, to direct DEQ funds of \$526,233 to towards project payment, and to continue to serve as fiscal sponsor regarding the additional grant funds of \$70,000.00 received from Multnomah County, upon approved as to form by the City Attorney.
- b. Portland Portland Parks & Recreation is authorized to direct payments and reimbursement to Verde in accordance with City contract obligations and with proper documentation as may be required.

Section 2. The Council declares that an emergency exists in order to avoid further delay in the funding for the ongoing operations of Verde; therefore, this Ordinance shall be in force and effect from and after its passage by Council.

Passed by the Council: OCT 31 2018

Mary Hull Caballero
Auditor of the City of Portland




Commissioner Nick Fish
Prepared by: F. Dennis James & Kellie Torres
Date Prepared: September 26, 2018

By  Deputy

1140

Agenda No. **1126**
ORDINANCE NO. 189232
 Title

*Authorize the Director of Portland Parks and Recreation (~~PP&R~~) to execute the Sixth Amendment to the Thomas Cully Park development agreement to allow the transfer of Department of Environmental Quality (~~DEQ~~) and Multnomah County funds to Verde (Ordinance; amend Contract no. 30002864)

INTRODUCED BY Commissioner/Auditor: FISH	CLERK USE: DATE FILED OCT 23 2018
COMMISSIONER APPROVAL Mayor—Finance & Administration - Wheeler Position 1/Utilities - Fritz Position 2/Works - Fish Position 3/Affairs - Saltzman Position 4/Safety - Eudaly	Mary Hull Caballero Auditor of the City of Portland By:  Deputy
BUREAU APPROVAL Bureau: Parks & Recreation Bureau Head: Interim Director Kia Selley  Prepared by: F. Dennis James Date Prepared : September 21, 2018 Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/> Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> City Auditor Office Approval: N/A required for Code Ordinances City Attorney Approval: required for contract, code, easement, franchise, comp plan, charter  Council Meeting Date: Oct. 31, 2018	ACTION TAKEN:

AGENDA TIME CERTAIN <input type="checkbox"/> Start time: _____ Total amount of time needed: . minutes (for presentation, testimony and discussion) CONSENT <input checked="" type="checkbox"/> <i>Pulled</i> REGULAR <input type="checkbox"/> Total amount of time needed: . Minutes (for presentation, testimony and discussion)	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 30%;">FOUR-FIFTHS AGENDA</th> <th colspan="2">COMMISSIONERS VOTED AS FOLLOWS:</th> </tr> <tr> <th></th> <th>YEAS</th> <th>NAYS</th> </tr> <tr> <td>1. Fritz →</td> <td style="text-align: center;">✓</td> <td></td> </tr> <tr> <td>2. Fish</td> <td style="text-align: center;">✓</td> <td></td> </tr> <tr> <td>3. Saltzman</td> <td style="text-align: center;">✓</td> <td></td> </tr> <tr> <td>4. Eudaly</td> <td style="text-align: center;">—</td> <td style="text-align: center;">—</td> </tr> <tr> <td>Wheeler</td> <td style="text-align: center;">✓</td> <td></td> </tr> </table>	FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:			YEAS	NAYS	1. Fritz →	✓		2. Fish	✓		3. Saltzman	✓		4. Eudaly	—	—	Wheeler	✓	
FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:																					
	YEAS	NAYS																				
1. Fritz →	✓																					
2. Fish	✓																					
3. Saltzman	✓																					
4. Eudaly	—	—																				
Wheeler	✓																					