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# 191831

Emergency Ordinance

\*Amend contract with Westech Construction Inc. for \$1,839,574 including contingency to construct additional improvements on NE 46th Ave and NE Columbia Blvd for the NE 46th Ave & Bryant St Local Improvement District (amend Contract 30008643; C-10065)

Passed

The City of Portland ordains:

Section 1. The Council finds:

- 1. The Council adopted Resolution No. 37394 on November 7, 2018 initiating local improvement district formation proceedings for the NE 46th Avenue & Bryant Street Local Improvement District (LID).
- 2. The Council adopted Ordinance No. 189347 on January 16, 2019 forming the NE 46th Avenue & Bryant Street LID.
- 3. The Council adopted Ordinance No. 189681 on September 4, 2019 authorizing the design and construction of bus pullouts at the NE 47th Avenue & Columbia Blvd. intersection in both the westbound and eastbound directions.
- 4. The Council adopted Ordinance No. 190562 on September 22, 2021 authorizing the acquisition of property rights for the NE 46th Avenue & Bryant Street LID.
- 5. The Council adopted Ordinance No. 191456 on September 20, 2023 to amend the NE 46th Avenue & Bryant Street LID to design and construct additional stormwater improvements to NE 42nd Avenue and to NE Columbia Blvd.
- 6. The Council authorized award of the construction contract to Westech Construction, Inc. accepting Bid No. 00002187 on November 15, 2023. Contract No. 30008643 was executed on December 11, 2023 in the amount of \$2,628,323.07.

## Introduced by

**Mayor Ted Wheeler** 

#### Bureau

**Transportation** 

### Contact

## Matthew Kelly

Capital Project Manager I

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### **Andrew Aebi**

LID Administrator & Project Manager, PBOT

**J** 503-823-5648

## Requested Agenda Type

Regular

#### **Date and Time Information**

**Requested Council Date** 

July 10, 2024

**Time Requested** 

10 minutes

- 7. An Extra Work Agreement was approved as to form by the City Attorney and was executed on December 14, 2023, under authority of directive 'I' of Ordinance No. 189347 after Contract No. 30008643 was executed. The Extra Work Agreement included additional sidewalk improvements on the east side of NE 46th Avenue and on the north side of NE Columbia Blvd. abutting the Baker Petroleum property addressed as 6551 NE 47th Avenue.
- 8. The additional improvements identified in Finding No. 7 of this Ordinance are adjacent to the work included in Contract No. 30008643. NE Columbia Blvd. is a major freight route. Building improvements at and adjacent to the intersections at NE 46th Avenue & Columbia Blvd. in a single construction phase will be less disruptive to freight operations.
- 9. The Portland Bureau of Transportation (PBOT) proposes to amend Contract No. 30008643 to include Change Order No. 3 included in this Ordinance as Exhibit A. Change Order No. 3 includes additional improvements identified in Finding No. 7 of this Ordinance in lieu of deferring construction of this work to a subsequent phase of construction. Currently the construction work is phased as shown on the map in Exhibit B. It is preferable to have a single contractor construct the entire width of the right-of-way within the NE 46th & Bryant LID as proposed on the map in Exhibit C.
- 10. TriMet requested additional improvements to provide benefit to their property on May 22, 2024 and on June 11, 2024, as indicated in Exhibit D and has requested that this work be included in Contract No. 30008643 for efficiency. This work includes but is not limited to installing heavier duty and taller fencing in lieu of standard 6' chain link fencing per TriMet's pursuance of Permit No. 2024-041976-000-00-CO to provide additional security for the Columbia Bus Base.
- 11. TriMet has the largest combined financial share of the 46th & Bryant LID and the work referenced in Finding No. 10 will be a cost born solely by Pending Lien No. 165851 in lieu of by all properties in the LID because non-TriMet properties will not receive special benefit from these improvements.
- 12. PBOT proposes to increase the total construction contract with Westech Construction, Inc., to \$4,515,994 to include the work identified in Finding Nos. 7 and 10 of this Ordinance, representing an increase of \$1,839,574 from the current contract amount of \$2,676,420. The increased contract amount includes \$1,036,923 in work that builds frontage improvements for Baker Petroleum (addressed as 6551 NE 47th Avenue) as well as the following TriMet work:
  - a. \$174,711 for extra embankment for fencing; and

- b. \$247,978 for labor cost of fence installation; and
- c. \$348,862 for fence materials contingency; and
- d. \$28,350 for conduit work along NE 46th Avenue; and
- e. \$2,750 for 1,250 linear feet of temporary fencing at a unit price of \$2.20.

#### NOW, THEREFORE, the Council directs:

- A. The Director of the Portland Bureau of Transportation or her designee is authorized to execute additions to Contract No. 30008643 with Westech Construction, Inc., for the purpose and amount described in Section 1, to increase the total contract amount to \$4,515,994.
- B. The Portland Bureau of Transportation Director or designee is authorized to execute subsequent change orders to the contract provided the cumulative total of all subsequent change orders does not exceed \$451,599 or 10% of the new contract value of \$4,515,994.
- C. The Bureau of Revenue & Financial Services is directed to increase the amount of Pending Lien No. 165851 by \$834,710.27 from \$9,086,228.13 to \$9,920,938.40.

Section 2. The Council declares that an emergency exists because the construction contract is active and the Portland Bureau of Transportation needs to remit progress payments to Westech Construction, Inc. in a timely manner; therefore, this Ordinance shall be in full force and effect from and after its passage by the Council.

#### **Documents and Exhibits**

**Exhibit A Attachment 1** 

(https://www.portland.gov/sites/default/files/council-documents/2024/exhibit-a-contract-change-order-3-1-of-2.pdf) 12.15 MB

- **Exhibit A Attachment 2**
- (https://www.portland.gov/sites/default/files/council-documents/2024/exhibit-a-contract-change-order-3-2-of-2.pdf) 11.41 MB
- Exhibit B (https://www.portland.gov/sites/default/files/council-documents/2024/exhibit-b-current-phasing.pdf) 211.22 KB
- <u>Exhibit C (https://www.portland.gov/sites/default/files/council-documents/2024/exhibit-c-revised-phasing.pdf)</u> 211.04 KB
- **Exhibit D Attachment 1**

(https://www.portland.gov/sites/default/files/council-documents/2024/exhibit-d-attachment-1-trimet-letter.pdf) 611.59 KB

## **Exhibit D Attachment 2**

(https://www.portland.gov/sites/default/files/council-documents/2024/exhibit-d-attachment-2-trimet-letter.pdf) 449.11 KB

An ordinance when passed by the Council shall be signed by the Auditor. It shall be carefully filed and preserved in the custody of the Auditor (City Charter Chapter 2 Article 1 Section 2-122)

Passed by Council July 10, 2024

Auditor of the City of Portland Simone Rede

# **Impact Statement**

# Purpose of Proposed Legislation and Background Information

- Allows additional construction to be completed under an existing contract
- This change will accelerate completion of the overall project and mitigate the risk of future cost increases.

## **Financial and Budgetary Impacts**

- The total project is budgeted at \$15,675,671 and is funded through a Local Improvement District, with supplemental funding by TriMet, Bureau of Environmental Services, a stormwater assessment zone, and general transportation revenue.
- The capital project number is T00872.
- The contract to be amended is for construction services for phase 1 of the project. The request is to increase the contract value by \$1,839,574 to a total contract value of \$4,515,994. This will allow additional work to be completed as part of phase 1. The contract amount increase was determined by increasing the quantities for items with unit costs as priced under the original bid. Items priced as a lump sum were revised upward via negotiation and are considered fair.
- TriMet has the largest combined financial share of the 46th & Bryant LID and the work referenced in Finding No. 10 of the ordinance will be a cost born solely by Pending Lien No. 165851 in lieu of by all properties in the LID because non-TriMet properties will not receive special benefit from these improvements.
- No additional funding is requested.
- Taking this to Council is necessary because the contract increase exceeds 25% of the original contract amount.

## **Community Impacts and Community Involvement**

• Construction-related impacts are communicated with property owners, businesses, and the traveling public on an ongoing basis as part of this under-construction project.

### 100% Renewable Goal

Not applicable.

# **Budget Office Financial Impact Analysis**

This action increase the contract for the NE 46th Ave and NE Columbia Blvd for the NE 46th Ave & Bryant St Local Improvement District by \$1.8 million for additional improvements. The total project is budgeted at \$15,675,671 and is funded through a Local Improvement District, with supplemental funding by TriMet, Bureau of Environmental Services, a storm water assessment zone, and general transportation revenue. No additional appropriations are being requested as a result of this action.

# **Document History**

Item 656 Regular Agenda in <u>July 10, 2024 Council Agenda</u> (https://www.portland.gov/council/agenda/2024/7/10)

City Council

Passed

Commissioner Rene Gonzalez Yea

Commissioner Mingus Mapps Yea

Commissioner Carmen Rubio Yea

Commissioner Dan Ryan Yea

Mayor Ted Wheeler Yea