

[Home](#) / [Council Documents](#)

# 191413

Emergency Ordinance

## \*Amend contract with Faison Construction, Inc. for additional construction services for Forest Park Entry Project for \$226,961 (amend Contract 30007897)

Passed

The City of Portland ordains:

Section 1. The Council finds:

1. Pursuant to Ordinance No. 190404 passed by Council on May 12, 2021, a contract with Faison Construction, Inc. (Faison) was authorized on September 15, 2021, to provide construction services for the Forest Park Entry Project Development (Contract No. 30007897). The value of the Contract was \$1,873,598.27.
2. The original engineer's estimate for this Portland Parks & Recreation (PP&R) project was \$2,500,000 and the confidence level was "Moderate". The Contract value was 25% lower than the engineer's estimate.
3. Four construction change orders were executed to the project scope due to unforeseen site issues and wet weather impacts during construction. Change order work is outlined below.
  - A. Change Order 1: Added construction scope of work to capture and direct stormwater to approved stormwater facilities during construction, fabricate and install an entry gate, site fencing, and to excavate and remove additional unforeseen bedrock to install site walls. (\$200,932.35)
  - B. Change Order 2: Added construction scope of work to replace base rock material eroded away by above average seasonal precipitation during construction, additional site walls for slope stabilization, and extended safety fencing to support maintenance worker safety. (\$220,243.47)
  - C. Change Order 3: Was a no-cost change order to extend the construction contract date. (\$0.00)
  - D. Change Order 4: Added construction scope of work for additional stormwater facility fencing, additional parking rules and enforcement signage and curb painting for unauthorized

Introduced by

[Commissioner Dan Ryan](#)

Bureau

[Parks & Recreation](#)

Contact

Gary Datka (he, him)

Capital Project Manager

✉ [gary.datka@portlandoregon.gov](mailto:gary.datka@portlandoregon.gov)

📞 [971-288-9230](tel:971-288-9230)

Requested Agenda Type

Consent

Date and Time Information

Requested Council Date

August 16, 2023

overnight parking, and additional required ODOT pedestrian crossing push button changes. (\$45,356.14)

4. PP&R by Order of Consent by Oregon Department of Environmental Quality (DEQ) was required to complete remediation of contaminated media on project site by December 31, 2021. This remediation deadline was extended to June 30, 2022, via amendments with DEQ Compliance and Enforcement.
5. PP&R issued Substantial Completion for the Contract on June 29, 2022.
6. From December 24<sup>th</sup> through 26<sup>th</sup> 2022, a storm caused damage to the completed work, outside of the control of either the City or the contractor, which now requires repair and engineering improvements. Prior to repairing the damage, PP&R reviewed the original design and identified deficiencies that should be addressed when repairing the storm damage, as outlined below.
  - A. PP&R maintenance staff and Portland Fire & Rescue (PF&R) use Firelane 1 for maintenance and emergency response. The originally provided surface material does not allow for adequate traction for maintenance and fire safety vehicles and may increase the risk of sliding uncontrolled during descent or an inability to ascend due to loose gravels.
  - B. Early user feedback from pedestrians, cyclists, and PP&R trails crews indicate that the originally provided surface material for the Firelane 1 does not allow for adequate traction for all pedestrians, cyclists, PF&R Staff and PP&R trails crews.
  - C. Deferred maintenance and natural changes of existing drainage channels and culverts up-slope from this project have resulted in new and unforeseen runoff patterns over unprotected surfaces that the engineering design of this project could not have account for. These runoff patterns have caused significant erosion to the constructed improvements on Firelane 1.
  - D. Increased and ongoing graffiti removal on new site concrete walls needs to be addressed.
7. To address the damage and identified deficiency issues on site, PP&R submitted a Proposal Request (PR) to Faison Construction of the items identified in the above Finding. The proposal from Faison Construction has been received and is determined to be fair and reasonable based on the complexity of the scope of work.
8. An amendment to the Contract (Change Order 5) for the additional construction scope of work would be a lump sum fee of \$226,961.36 and would increase the Contract value to a new not-to-exceed amount of \$2,567,091.59. The resulting amended contract value exceeds a 25% increase and requires Council approval.
9. The amended contract dollar amount is within the original total project allocation, currently held as contingency, and no additional funds are requested to be allocated to complete this work.
10. PP&R desires to expedite Change Order 5 in order to ensure the contractor will have adequate time to procure materials and can

perform necessary construction work in dry weather.

NOW, THEREFORE, the Council directs:

- A. The Chief Procurement Officer or designee is authorized to execute Change Order 5 to Contract No. 30007897 for additional construction services as outlined in the Findings, in the amount of \$226,961.36, which would increase the Contract to a new not-to-exceed amount of \$2,567,091.59. Change Order 5 shall be approved as to form by the City Attorney.
- B. The Mayor and City Auditor are authorized to provide payment chargeable to the applicable budgets when demand is presented and approved by the appropriate authorities.

Section 2. The Council declares that an emergency exists because current dry weather condition is an important factor in completion and any delay in proceeding with this Change Order will hamper the City's and contractor's ability to proceed with repairs and final corrective work to the project site; therefore, this Ordinance shall be in full force and effect from and after its passage by the Council.

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  
August 16, 2023

Auditor of the City of Portland  
Simone Rede

## Impact Statement

### Purpose of Proposed Legislation and Background Information

This ordinance authorizes an amendment to Contract No 30007897 with Faison Construction, Inc. The amendment authorizes Change Order #5 for \$226,961.36 lump sum fee for additional construction scope of work on the Forest Park Entry Project. This is the fifth amendment to this contract, originally authorized by Ordinance No. 190404, passed by City Council on May 12, 2021

The Forest Park Entry Project ("Project") provides the public with access to Forest Park by constructing a new entry point, a bus drop-off, vehicular parking, trailhead with signage, landscape improvements, and Firelane 1 repairs. In addition, the construction of the Project's stormwater and erosion control measures meet the requirements of the Oregon Department of Environmental Quality for the site contaminated media remediation.

Faison Construction, Inc received substantial completion for the contract scope of work on 6/29/2022. Damage beyond the control of the contractor has occurred since completion that requires repair and engineering improvements.

The additional construction scope of work is necessary to ensure long-term maintenance and emergency access is provided for Firelane 1, provide increased and better access to recreation for trail users utilizing this new trailhead parking lot asset at Firelane 1, and to provide additional drainage control and erosion protection for Firelane 1.

## **Financial and Budgetary Impacts**

The contract amendment amount will be covered by contingency in the existing project budget intended to cover such changes as they arise.

The original engineer's estimate for this project was \$2,500,000 and the confidence level was Moderate. Contract No 30007897 with Faison Construction, Inc. for \$1,873,598.27 was 25% lower than the engineer's estimate.

Funding for this Project was included in the FY21-22 budget through a combination of funds from PP&R System Development Charges and State of Oregon Grant funds.

## **Community Impacts and Community Involvement**

There are no community impacts anticipated, nor community involvement necessary, as a result of this legislation. There was a robust community engagement process in 2019-20 throughout the design of the project, as well as information distributed regarding anticipated impacts due to construction.

## **100% Renewable Goal**

N/A

## **Budget Office Financial Impact Analysis**

The \$227,000 fiscal impact of this change order will be absorbed by the project's contingency budget—which is backed by SDC and State grant revenue.

## **Agenda Items**

679 Consent Agenda in [August 16, 2023 Council Agenda](https://www.portland.gov/council/agenda/2023/8/16)  
(<https://www.portland.gov/council/agenda/2023/8/16>).

Passed

Commissioner Rene Gonzalez Yea

Commissioner Mingus Mapps Yea

Commissioner Carmen Rubio Yea

Commissioner Dan Ryan Yea

Mayor Ted Wheeler Yea