

PDC

PORTLAND DEVELOPMENT COMMISSION

DATE: March 25, 2009

TO: Board of Commissioners

FROM: Bruce A. Warner, Executive Director

SUBJECT: Report Number 09-38
Amend DDA with HAP and seek authority to increase an existing site remediation contract with Westech Environmental

EXECUTIVE SUMMARY

BOARD ACTION REQUESTED

Adopt Resolution No. 6690 and 6691

ACTION SUMMARY

Unforeseen environmental contamination was discovered during the PDC initiated remedial action and cleanup of Block U, the future site of the Resource Access Center (RAC) to be developed by the Housing Authority of Portland (HAP). This action provides contract authority to the Executive Director to enter into change orders to an existing contract with Westech Environmental resulting in a contract in an amount not to exceed \$650,000.

This action also amends the Disposition and Development Agreement (DDA) with HAP for the development of the Resource Access Center on the western lots of Block U. The amendment increases the cap in the DDA on PDC expenditures for environmental remediation from \$500,000 to \$750,000. This will allow for the Westech contract up to \$650,000 and the payment of additional soft costs related to the remediation including engineering, monitoring, and fees up to \$100,000.

This action also amends the schedule of performance, Exhibit C of the DDA, to allow sufficient time to complete an expanded scope of environmental remediation and obtain the appropriate DEQ approvals. By this action, the scheduled dates for environmental actions are each extended by 60-90 days to result in a site cleanup by March 31, 2009 and a DEQ No Further Action letter by August 12, 2009.

PUBLIC BENEFIT

The increased contract authority will ensure that the soil remediation on Block U can be completed and a letter of determination issued by DEQ allowing development of the site. Utilizing the existing contractor, who is mobilized and working on the site, will conserve public resources and most expeditiously complete the remediation program on a schedule that allows development of the RAC as contemplated in the DDA.

The amended DDA will allow PDC to proceed with the environmental remediation and meet the obligations between PDC and HAP.

This action will support the following PDC goals:

- Sustainability and Social Equity
- Healthy Neighborhoods
- A Vibrant Central City
- Strong Economic Growth and Competitive Region
- Effective Stewardship over our Resources and Operations, and Employee Investment

PUBLIC PARTICIPATION AND FEEDBACK

There were many forums for public participation and feedback over the past two years regarding the development of the RAC. There has been no formal public participation for the actions of this resolution.

COMPLIANCE WITH ADOPTED PLANS AND POLICIES

PDC's Construction Wage Policy

PDC's Business and Workforce Equity Policy

The Intergovernmental Agreement between the City of Portland, HAP and PDC dated 3/11/09 stated the intention of the parties to take the steps necessary for the development and operation of a facility for homeless services and housing for the homeless on a portion of Block U.

A 10-Year Plan to End Homelessness in Portland and Multnomah County was adopted by the City Council as Resolution No. 36367 on December 21, 2005. The proposed RAC development after site remediation implements that plan.

FINANCIAL IMPACT

This action will authorize the Executive Director to issue necessary change orders and increase the contract with Westech Environmental from \$210,875 to an amount not to exceed \$650,000.

RISK ASSESSMENT

Failure to complete the on-going site remediation will result in considerable extra costs for either standby, temporary capping and or other actions necessary to protect human health and the environment.

Completing the necessary site cleanup meets the obligation to HAP as originally contemplated under the DDA for PDC to deliver a site ready for development of the Resource Access Center.

WORK LOAD IMPACT

Work for PDC procurement and PDC project management staff are within existing resources.

ALTERNATIVE ACTIONS

The Board could elect not to increase the expenditure authority or amend the DDA. This would result in a stop work order and leave the site partially cleaned up and PDC unable to obtain a DEQ No Further Action letter. Additional interim remedial actions would likely be required by DEQ. Using a different contractor at a later date to finish the work that was begun by Westech would significantly decrease cleanup efficiencies by increasing costs and delaying the schedule.

The Board could decide not to take any action and effectively stop the development of the RAC on Block U until further due diligence and work by HAP on the financing determined if sufficient funding was available from other sources to cover the costs in excess of \$500,000. The DDA would need to be amended to, among other things, remove the obligation for PDC to obtain a letter of NFA from the DEQ or other certification and conditions allowing the site to be used for residential development, and HAP does not agree to this change.

CONCURRENCE

This action has been negotiated and agreed between HAP and PDC. DEQ has been actively engaged with oversight of the cleanup and is in concurrence with the approach to proceed ahead and remove the unforeseen environmental contamination.

BACKGROUND

Initial environmental due diligence was undertaken by PDC after Block U was purchased in 1990. These efforts were put on hold when the site was paved for parking and later leased to Trimet for construction storage and staging to facilitate transportation improvements in downtown Portland. After PDC Resolution 6564 on February 27, 2008 designated Block U as the site of the Resource Access Center, PDC restarted environmental investigations on the site. Phase II environmental studies indicated that significant soil remediation would be needed to prepare the site for residential development with an estimated cost including contingencies of \$500,000.

PDC prepared the necessary design and engineering and solicited competitive bids in late summer 2008. The Executive Director authorized a contract with Westech Environmental on November 20, 2008 in an amount of \$210,875. Cleanup work was essentially put on hold during the downtown holiday moratorium period from Nov 20, 2008 to Jan 2, 2009.

In late January 2009 unforeseen, deep contamination was discovered at the site which included an unknown Underground Storage Tank as well as significant amount of petroleum contaminated soil (pcs) in excess of 5,000 tons that must be properly removed and disposed to Hillsboro landfill. The Westech contract provides an establish unit price of

\$52.25 per ton for handling and disposal of pcs. In addition a corresponding amount of clean imported fill is required to fill the void.

In order to complete removal of the remaining pcs, Staff believes additional change orders to the Westech Environmental contract will exceed the Executive Director's authority of \$500,000. The estimated site remedial action by Westech is now estimated at a cost not to exceed \$650,000. In addition, soft costs to include additional environmental field oversight, sampling and special inspection work are necessary in an amount not to exceed \$100,000.

The DDA between HAP and PDC for the development of the RAC and associated housing was approved by the Commission in Resolution 6638 on January 29, 2009. The DDA provides up to \$29.5 million to HAP for project expenses and authorizes the expenditure of an additional \$500,000 by PDC to pay for site remediation. Specifically Section 3.1.1 of the DDA says "PDC shall pay the costs of environmental remediation at a cost not to exceed Five Hundred Thousand Dollars". The cap was included in the DDA to protect PDC from a contractual obligation for specific performance for which funding might not be available. The imperative for a cap was particularly important in the case of Block U because the site became part of the expanded River District through Urban Renewal Area amendments in July 2008. That geographic expansion of the district is now part of a Portland Urban Renewal legal and political challenge that has to be resolved to PDC's satisfaction before transferring Block U to HAP and funding the RAC.

The DDA also establishes that, as a condition of closing, the DEQ issue a "No Further Action" letter or a progress letter acceptable to both PDC and HAP. A schedule of performance is included in the DDA with a due date of June 12, 2009 for the DEQ letter. The schedule of performance, Exhibit C of the DDA, must be amended to allow sufficient time to complete the expanded scope of remediation and obtain the appropriate DEQ approvals. By this action, the scheduled dates for environmental actions are extended by 60-90 days to result in a scheduled site cleanup by March 31, 2009 and a DEQ No Further Action letter by August 12, 2009.

ATTACHMENTS:

- A. URA Financial Summary
- B. Project Summary

URA FINANCIAL SUMMARY

RIVER DISTRICT URA - Five-Year Budget Planning by Project for FYs 2010-2014

Scenario 1 - No Amendments

Resources	Adopted FY 2008-09	2008-09 Actuals July-Dec	AMENDED 2008-09 BUDGET	2008-10	2010-11	2011-12	2012-13	2013-14	5 Yr Total
3110 Tax Increment - S-T Debt	13,960,000	0	18,766,327	16,519,453	0	0	0	0	16,519,453
3120 Tax Increment - L-T Debt	27,219,465	0	0	49,221,708	0	0	0	0	49,221,708
3130 Loan Fees	0	3,195	0	0	0	0	0	0	0
3140 Loan Late Charges	0	30	0	0	0	0	0	0	0
3310 Loans - Principal Collection	2,290,000	22,622	290,000	1,290,000	290,000	290,000	290,000	290,000	2,450,000
3320 Loans - Interest Earned	335,000	342,978	335,000	335,000	335,000	335,000	335,000	335,000	1,675,000
3325 Loan Interest - Capitalized	0	71,545	0	0	0	0	0	0	0
3340 Reimbursement	1,025,000	0	1,452,500	125,000	125,000	125,000	0	0	375,000
3510 Rent and Property Income	200,000	89,387	200,000	200,000	200,000	200,000	200,000	0	800,000
3710 Interest - City Invest Pool	60,000	176,663	50,000	1,000,000	200,000	50,000	50,000	0	1,300,000
3999 Beginning Fund Balance	10,660,606	16,679,294	16,879,294	20,028,402	52,609,563	8,265,563	5,635,563	4,560,563	91,099,654
Total Fund	55,665,971	17,686,011	37,973,121	88,718,683	63,768,683	8,266,683	6,610,683	6,186,683	183,440,816

Requirements

Project Expenditures (These do not include Personal Services or Indirect Cost)

Development	2008-10	2010-11	2011-12	2012-13	2013-14	5 Yr Total
10225 RD Retail Loan Program	600,000	4,589	5,000	0	0	0
10226 Meler&Frank Redevelopment	0	1,658	12,000	0	0	0
11263 RD Public Site Imprv	250,000	480	250,000	200,000	0	200,000
11264 RD Burns/Couch Trans	1,100,000	0	1,100,000	0	0	0
13104 RD Centennial Mill	685,000	44,921	585,000	200,000	9,335,000	10,335,000
13112 RD North Pearl Planning	200,000	570	200,000	0	0	0
13113 RD One Waterfront	4,000,000	6,569	200,000	350,000	7,350,000	8,300,000
13115 RD Station Place Redev	0	8,045	0	0	0	0
13119 RD Neighborhood Park	350,000	0	350,000	2,450,000	2,450,000	4,900,000
13135 RD Redevelopment Loan Fund	0	33,163	200,000	1,500,000	1,500,000	7,500,000
13136 RD DOG Program	0	0	100,000	75,000	75,000	375,000
13137 RD Eastside Streetcar Connect	7,600,000	4,367	2,100,000	10,400,000	4,500,000	14,900,000
13138 RD Post Office	1,200,000	137,686	1,200,000	0	0	0
13142 RD Project Management	0	2,793	25,000	0	0	0
13143 RD Environmental	0	0	570,000	0	0	0
60005 RD Transit Mall Redev	0	663,460	657,450	0	0	0
60017 RD Signage & Lighting	0	2,737	0	0	0	0
60020 Union Station Mgt & Crit Impr	725,000	1,719	725,000	0	0	0
60021 RD 10th & Yamhill	4,000,000	7,470	100,000	0	0	0
60024 RD Multnomah County	0	0	0	0	0	0
60026 RD Satellite Districts	0	0	0	0	0	0
Development Total	20,610,000	912,728	8,378,460	15,175,000	26,210,000	48,610,000
Economic Development						
13088 RD Storefront Grants	350,000	32,595	200,000	200,000	200,000	400,000
70003 RD Business Finance Tools	1,100,000	317,660	1,100,000	1,100,000	1,100,000	3,300,000
70753 RD Target Industry Development	0	0	0	1,000,000	2,000,000	4,500,000
Economic Development Total	1,450,000	350,245	1,300,000	2,300,000	3,300,000	8,200,000
Housing						
32129 Pearl Family Housing	9,000,000	341,364	900,000	12,000,000	7,000,000	19,000,000
37926 RD HSP Affordable Rental Hsg	600,000	0	0	500,000	4,000,000	4,500,000
37935 Yards at Union Station	3,700,000	270	50,000	0	0	0
37937 Access Center/Aff Hsg	760,000	10,562	650,000	0	0	0
37938 Blanchet House Redev	1,000,000	11,161	465,000	0	0	0
37939 Fairfield Preservation	0	0	0	0	0	0
37940 New Avenues For Youth	1,200,000	0	0	1,200,000	0	1,200,000
RD_Nt OT/CT Homeownership Development	0	0	0	0	0	0
60014 Affordable Homeownership	0	160	0	0	0	0
60027 Grove Apartments	300,000	266,165	500,000	0	0	0
Housing Total	16,460,000	628,952	2,686,000	13,700,000	11,000,000	24,700,000
Central Services						
59156 RD Debt Management	60,000	34,993	50,000	50,000	50,000	200,000
Central Services Total	60,000	34,993	50,000	60,000	60,000	200,000
Executive						
60002 RD Westside/Central City	233,000	107,116	233,000	175,000	0	175,000
Executive Total	233,000	107,116	233,000	175,000	0	175,000
Total Project Expenditures	38,693,000	2,034,033	12,627,460	31,400,000	38,680,000	78,786,000
Total All Personal Svcs & Indirect Costs	6,685,400	3,076,713	6,822,288	4,710,000	5,934,000	12,409,000
Total Fund Expenditures	45,378,400	5,110,746	18,348,719	38,110,000	46,484,000	82,184,000
Contingency	10,277,671	0	20,028,402	52,609,563	8,265,563	71,246,819
Ending Fund Balance	0	0	0	0	0	0
Total Requirements	55,655,971	5,110,746	38,378,121	88,718,683	63,768,683	183,440,816

* Please note that the 2008-09 Actuals data only shows revenue and expenditures which have been entered into Lawson as of December 31, 2008. These numbers DO NOT show or represent any encumbrances, since encumbrances may or may not spend in the current fiscal year.

PROJECT SUMMARY

- Project Name:** Resource Access Center (RAC)
- Description:** Development of western lots of Block U by HAP
- Location:** Block U is bounded by NW Hoyt, NW Broadway, NW 6th and NW 5th
- URA:** Expanded River District (under legal challenge)
- Current Phase:** Environmental remediation is underway/ site is subject to DDA with HAP
- Next Milestone:**
- Completion Target:** Issuance of DEQ letter in August 2009
Closing on conveyance and funding in October 2009
- Outcome:** Construction of resource center for the homeless, 90 bed men’s shelter and 130 units of housing for homeless with occupancy in late 2011
- Site/Project Map:**

