

# PDC

## PORTLAND DEVELOPMENT COMMISSION

**DATE:** June 24, 2009  
**TO:** Board of Commissioners  
**FROM:** Bruce A. Warner, Executive Director  
**SUBJECT:** Report Number 09-80  
Ankeny Burnside Public Improvement Cost Increases

### EXECUTIVE SUMMARY

#### BOARD ACTION REQUESTED

Adopt Resolution No. 6719

Adopt Resolution No. 6720

#### ACTION SUMMARY

These actions will authorize increases to the construction contracts for the (1) Waterfront Park and (2) MAX Retail / Burnside Bridge improvement projects (Projects):

These two contracts are for the public improvements in Ankeny / Burnside that were a direct recommendation of the Ankeny / Burnside Development Framework, adopted December 2006 by the Portland Development Commission (PDC) Board of Commissioners (Board). The work was divided into two separate contracts due to the fundamental differences in the type of work on the east and west sides of Naito Parkway. The funding for these projects is from the Downtown Waterfront Urban Renewal Area (URA) specifically for Ankeny Burnside Public Improvements.

1. Brown Contracting Waterfront Park Contract (Contract No. 307009) increase of \$250,000, from \$10,621,093 to \$10,871,093.

The cost increase for Waterfront Park is principally due to:

- Increased costs for utility connections;
- Unforeseen costs to resolve contractor claims;
- Unforeseen design issues to include lower fountain trench, vault and site drainage;
- Unforeseen site conditions to include additional buried old utilities and manholes;
- and
- Additional permit requirements that required modifications to fountain drain system, storm drain system and electrical service.

The Waterfront Park project is divided into two parts:

Phase A: reached substantial completion on April 24 and Portland Saturday Market began use on May 1; and

Phase B: scheduled to reach substantial completion on July 10, with a grand opening scheduled for August 20.

PDC's ability to deliver the project on this schedule and resolve all the unforeseen issues is dependent on the increase in the contract with Brown Contracting. Staff, in consultation with the PDC Contracts Manager, has deployed other necessary actions to mitigate additional risk and further minimize claims exposure with Brown by selective deletion of work scope and adding this work to the adjacent Max Retail Cedar Mill project.

2. Cedar Mill MAX Retail Contract (Contract No. 308000) increase of \$200,000 from \$1,166,663 to \$1,366,663.

The cost increase for MAX Retail is principally due to:

- Additional permit requirements that require upgrades to the fire alarm system and modifications to door hardware and egress;
- Unforeseen site conditions to include constraints and shifting of electrical service meter and service requirements by PGE;
- Resolving unforeseen minor design conflicts and necessary adjustments to meet ATM room requirements and land use storefront requirements; and
- Accommodate the work that was shifted from Waterfront Park to be completed by Cedar Mill.

The Max Retail project has been divided into 3 parts;

Phase A: ATM will reach Substantial Completion on June 12;

Phase B: Max Retail and Under Bridge Work by July 1; and

Phase C: additional work at Waterfront Park by August 15.

PDC's ability to deliver the project on this schedule and resolve all the unforeseen issues is dependent on the increase in the contract with Cedar Mill and the resolution of the final PGE electrical service route by boring under the Max tracks. This design solution has been developed in order to further reduce total project costs.

## **PUBLIC BENEFIT**

Approval of these contract increases will allow completion of the improvements as supported by the neighborhood and other stakeholders throughout the planning, design and construction process. The establishment of a permanent home in Waterfront Park for Portland Saturday Market represents the continued success of over 250 micro-businesses into the future.

### **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**

Neighborhood stakeholders including the Old Town / Chinatown Neighborhood Association (OTCT NA), and Visions, and Portland Saturday Market board and vendors have expressed ongoing support for this project. The neighborhood strongly supports the completion of the improvements currently under construction in Waterfront Park, and beneath the Burnside Bridge as recommended by the Ankeny / Burnside Development Framework. Staff has briefed the Old Town Land Use Committee on this specific action and have discussed the trade-offs of the increased costs at Waterfront Park for other Downtown Waterfront URA projects, specifically the Ankeny Restroom Project.

## **COMPLIANCE WITH ADOPTED PLANS AND POLICIES**

This action is consistent with the PDC Local Contract Review Board Rules. This project implements the recommendations of the Ankeny / Burnside Development Framework, adopted by the PDC Board in December 2006.

## **FINANCIAL IMPACT**

The contract increases would be funded from the Downtown Waterfront URA. Key stakeholder groups understand that funding available for the Ankeny Restroom Project would see a corresponding decrease. (See Attachment C for sources and uses, including breakdown of cost increases.)

## **RISK ASSESSMENT**

Not approving this additional expenditure will preclude PDC from completing the improvements to Waterfront Park in time for the grand opening ceremony and not meet the commitments made to Portland Parks and Recreation (PP&R) as set forth under the Intergovernmental Agreement (IGA). The grand opening event has been planned, and financial commitments have been made by the City for performers and event related rentals. A delay in approval will also cause further cost increases due to work stoppage or delay in completion of work, and potential legal risk due to delays in resolving claims at the administrative level.

The most important risk of approval is the decreased availability of PDC resources previously allocated for the construction of the Ankeny Plaza Restroom project (currently at 90% Construction Drawing phase of design). Other resources would be required to complete the Ankeny Plaza Restroom as designed, such as a local improvement district or City General Fund money. The Downtown Waterfront URA final close out strategy could also be re-prioritized to make up the difference.

## **WORK LOAD IMPACT**

The work outlined in this report is already incorporated into existing work plans for project staff under contract for Waterfront Park and engineering work for Ankeny Plaza Restrooms.

## **ALTERNATIVE ACTIONS**

The Board could elect to not approve additional funding for these improvements.

Not approving contract increases would result in a delay in the planned completion of the Waterfront Park and Max Retail projects. To either terminate or substantially modify the scope of the Waterfront Park and/or Max Retail projects currently nearing completion would likely expose PDC to substantial additional contract claims.

Analysis was completed to determine if it is possible to cut the scope of the project or quality of materials in order to bring the Waterfront Park project budget back into alignment. At this time, given the advanced stage of construction it has been deemed infeasible by the Architectural / Engineering team and City Staff to change the project currently under construction; all efforts to capture value engineering and other savings have been successfully deployed

## **CONCURRENCE**

PP&R is the partner agency on the Waterfront Park project, as they are the property owners and the lead agency to implement the design and obtain permits. PDC staff has engaged PP&R staff on the range of cost increases and recommended actions. PP&R is in agreement on the terms of these actions.

## **BACKGROUND**

Upon commencement of construction in June 2008 the Waterfront Park Improvements and MAX Retail / Burnside Bridge project held a 10% contingency (approx. \$830,000) to cover unexpected project costs. With construction at 90% completion, the remaining contingency will not be sufficient to cover all the issues that are known to date as well as the outstanding anticipated exposure. The key issues that have resulted in these cost increases in Waterfront Park are design issues that have changed during the construction of the project. These issues have caused the contractor to submit change orders resulting in increased costs to the Project.

The aggressive timeframe for getting the Project out to bid resulted in insufficient Construction Drawing details. The lack of clarity in Construction Drawing specifications and details, the complex site issues related to existing infrastructure and unforeseen subsurface conditions, and late permit requirement changes have all resulted in Project cost increases greater than the original 10% budgeted contingency for Waterfront Park and Max Retail. If this action is approved, the total project contingency will be 29.7%. Other typical large, complex fast track projects carry at least a 17% or greater contingency to help mitigate unforeseen issues.

The key driver on this Project has been time, resulting in greater cost to the project overall. In order to meet Portland Saturday Market's 2009 season opening, it has been necessary to make decisions that are driven by the schedule. Staff delivered this Phase A commitment and Portland Saturday Market now operates out of Waterfront Park. The next commitment to deliver is Phase B, a fully operating fountain and site open for use by the public. Staff anticipates reaching this milestone by July 10. There is a parallel relationship between expediting the Project and the costs incurred. The contractor understands this dynamic, and has been very flexible and willing to accommodate schedule constraints, although this flexibility has come at a financial cost.

Since starting work at Waterfront Park in July 2008, staff have deployed every effort to minimize cost exposure, control changes, implement Value Engineering, overcome weather delays, respond to multiple unforeseen subsurface issues and unforeseen permit requirements, and at the same time meet the commitments to the various stakeholders.

On May 1, 2009, Portland Saturday Market began operations at the Waterfront Park site, with the lower plaza and water feature completion to follow. The market has operated successfully in the space in the weekends subsequent to this date, and the 'soft' opening has been viewed as a great success. The remainder of the project will hit substantial completion in early July with a grand opening ceremony on August 20.

**ATTACHMENTS:**

- A. DTWF URA Financial Summary
- B. Project Summary and Map
- C. Project Cost Increase Spreadsheet

### URA FINANCIAL SUMMARY

#### Financial Summary

#### Fund Summary - Five-Year Budget Projections

	Revised FY 2008-09	Approved FY 2009-10	Forecast FY 2010-11	Forecast FY 2011-12	Forecast FY 2012-13	Forecast FY 2013-14
<b>Downtown Waterfront URA</b>						
<b>Resources</b>						
Beginning Fund Balance	29,599,939	11,299,685	5,531,963	1,952,443	175,643	135,643
Cash Transfers In	1,643,986	0	0	0	0	0
Fees and Charges	0	0	0	0	0	0
Interest on Investments	479,607	380,000	260,000	10,000	0	0
Loan Collections	1,450,000	700,000	500,000	500,000	500,000	1,000,000
Miscellaneous	0	0	0	0	0	0
Property Income	425,000	2,350,000	0	0	0	0
Reimbursements	0	0	0	0	0	0
Tax Increment Proceeds	785,880	300,000	450,000	450,000	450,000	450,000
<b>Total Resources</b>	<b>34,384,412</b>	<b>15,029,685</b>	<b>6,741,963</b>	<b>2,912,443</b>	<b>1,125,643</b>	<b>1,585,643</b>
<b>Requirements</b>						
<b>Program Expenditures</b>						
<b>Business &amp; Industry</b>						
<b>General Business Assistance</b>						
79020 Business Finance	1,000,000	500,000	500,000	0	0	0
<b>Business &amp; Industry Total</b>	<b>1,000,000</b>	<b>500,000</b>	<b>500,000</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Housing</b>						
<b>Multi-Family - Rental Housing</b>						
34504 Rich/Estate DTWF	357,407	0	0	0	0	0
80032 Musolf Manor DTWF	400,000	0	0	0	0	0
80033 Westshore DTWF	112,207	0	0	0	0	0
80037 Grove Apartments	546,015	0	0	0	0	0
80038 Resource Access Center	183,000	0	0	0	0	0
80039 333 Oak	2,100,000	0	0	0	0	0
<b>Plans and Strategies - Housing</b>						
37914 Housing Policy/Planning	5,000	0	0	0	0	0
<b>Portland Housing Bureau</b>						
28025 Administration	0	79,911	131,190	52,248	18,900	25,200
<b>Single-Family - Homebuyer Assistance</b>						
89020 Home Buyer Assistance	200,000	300,000	0	0	0	0
<b>Housing Total</b>	<b>3,903,629</b>	<b>379,911</b>	<b>131,190</b>	<b>52,248</b>	<b>18,900</b>	<b>25,200</b>
<b>Infrastructure</b>						
<b>Parks</b>						
10215 Ankeny/Burnside Public Improvements	9,640,000	2,000,000	0	0	0	0
<b>Transportation</b>						
10216 Multnomah County - Morrison Bridgehead	0	0	0	0	0	0
10221 Transit Mall Revitalization	100,000	0	0	0	0	0
11234 Westside Burnside - Couch Couplet	163,303	0	0	0	0	0
<b>Infrastructure Total</b>	<b>9,903,303</b>	<b>2,000,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**Financial Summary**

**Fund Summary - Five-Year Budget Projections**

	Revised FY 2008-09	Approved FY 2009-10	Forecast FY 2010-11	Forecast FY 2011-12	Forecast FY 2012-13	Forecast FY 2013-14
<b>Revitalization</b>						
<b>Plans and Strategies - Revitalization</b>						
92110 Westside/Central City Study	75,000	48,000	0	0	0	0
<b>Redevelopment</b>						
10214 Block 8 Redevelopment	200,000	3,350,000	0	0	0	0
10220 A/B Historic Preservation	40,000	0	0	0	0	0
12101 Downtown Retail Strategy	39,205	0	0	0	0	0
16306 South OT/CT Redevelopment	466,340	1,000,000	2,000,000	2,400,000	900,000	1,200,000
16309 RiverPlace Environmental	0	0	1,400,000	0	0	0
27001 Storefront Grants	278,169	200,000	200,000	88,000	0	0
28030 Redevelopment Loan Projects	1,873,371	0	0	0	0	0
80041 3rd & Oak Parking Obligation	61,840	63,040	64,800	0	0	0
<b>Revitalization Total</b>	<b>3,033,925</b>	<b>4,661,040</b>	<b>3,664,800</b>	<b>2,488,000</b>	<b>900,000</b>	<b>1,200,000</b>
<b>Administration</b>						
<b>Finance</b>						
98001 Debt Management	50,000	0	0	0	0	0
<b>Administration Total</b>	<b>50,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Total Program Expenditures</b>	<b>17,890,857</b>	<b>7,540,951</b>	<b>4,295,990</b>	<b>2,540,248</b>	<b>918,900</b>	<b>1,225,200</b>
Personal Services	505,246	556,798	93,708	37,320	13,500	18,000
Indirect Cost	2,968,138	1,399,973	399,821	159,232	57,600	76,800
<b>Total Fund Expenditures</b>	<b>21,364,241</b>	<b>9,497,722</b>	<b>4,789,519</b>	<b>2,736,800</b>	<b>990,000</b>	<b>1,320,000</b>
Cash Transfers Out	80,000	0	0	0	0	0
Contingency	12,940,171	5,531,963	1,952,444	175,643	135,643	265,643
Ending Fund Balance	0	0	0	0	0	0
<b>Total Requirements</b>	<b>34,384,412</b>	<b>15,029,685</b>	<b>6,741,963</b>	<b>2,912,443</b>	<b>1,125,643</b>	<b>1,585,643</b>

## PROJECT SUMMARY

**Project Name:** Ankeny / Burnside Public Realm Improvements

**Description:** Construction of Waterfront Park for Portland Saturday Market's new home.

**Location:** Ankeny / Burnside

**URA:** Downtown Waterfront

**Current Phase:** Construction

**Next Milestone:** Substantial Completion

**Completion Target:** Final construction stage late June 2009

**Outcome:** Revitalization of the Ankeny / Burnside area pursuant to recommendations which were proposed through the Ankeny / Burnside Development Framework planning process.

**Site/Project Map:**





**Project Cost Increase Spreadsheet**

<b>Waterfront Park and Max Retail Project BUDGET</b>		
<b>UPDATED 5-26-09</b>	<b>BUDGET</b>	
<b>FUNDING SOURCES</b>		
PDC Total Authorized Budget	\$	12,196,456.00
RACC Credit	\$	91,865.00
PPR (BES Big Pipe Restoration Payment)	\$	215,712.00
PPR Additional Contribution (Staff time + WM contract)	\$	250,000.00
TriMet	\$	150,000.00
Federal Cast Iron Grant Ankeny Restroom	\$	195,832.00
PDC Cast Iron Matching Funds Ankeny Restroom	\$	195,000.00
Wells Fargo ATM Cost Sharing	\$	15,000.00
<b>Sub Total</b>	<b>\$</b>	<b>13,309,865.00</b>
Parks Foundation Fundraising - Water Feature	\$	700,000.00
PPR - Enhanced Paving	\$	53,867.00
Parks Foundation Fundraising - Curved Cantilevered Deck	\$	50,000.00
PPR - Curved Cantilevered Deck	\$	44,600.00
<b>Sub Total</b>	<b>\$</b>	<b>848,467.00</b>
BES Odor Control Hard Costs w/ Amend #1	\$	1,788,354.00
BES Odor Control Soft Costs	\$	177,725.00
<b>Sub Total</b>	<b>\$</b>	<b>1,966,079.00</b>
<b>Total All Sources</b>	<b>\$</b>	<b>16,124,411.00</b>
<b>PROJECT TOTAL BUDGETS (as of 4-6-09)</b>		
WFP & Max Hard Cost Commission Approval	\$	10,162,840.00
WFP & Max PDC Soft Cost	\$	970,732.95
Parks IGA WFP & Max Commission Approval	\$	1,989,300.00
PP&R Add Contribution (Dec 1 Add)	\$	250,000.00
Parks IGA Amend #1 (Dec 1 Add)	\$	50,000.00
06-07 Parks WO (expended)	\$	578,805.00
PSM Interim Costs	\$	200,000.00
Ankeny Plaza Restroom	\$	896,041.00
BES Odor Control Hard Costs	\$	1,788,354.00
BES Odor Control Soft Costs	\$	177,725.00
<b>Sub Total</b>	<b>\$</b>	<b>17,063,797.95</b>

	BUDGET	EXPENDITURES & EXPOSURE
<b>EXPENDITURES</b>		
<b>06-07 Parks Work Order (expended)</b>	\$ 578,805.00	
<b>Paid to Others from 10215</b>	\$ 132,741.00	
Soft Costs Parks 07-08 & 08-09	\$ 1,894,600.00	
Soft Cost Contingency Parks	\$ 94,700.00	
	\$ 1,989,300.00	
Net Funds Available Soft Costs Parks Contingency	\$ -	
PP&R Add Contribution Dec 1	\$ 250,000.00	
PDC Add Contribution Dec 1	\$ 50,000.00	
<b>Sub Total Exposure Soft Costs Parks</b>		\$ 159,410.00
	\$ 300,000.00	
Sub Total Soft Costs PDC	\$ 970,732.95	
<b>Sub Total Exposure Soft Costs PDC</b>		\$ 103,000.00
	\$ 970,732.95	
<b>Total Soft Costs Parks &amp; PDC</b>	\$ 3,538,837.95	
<b>Total Soft Costs Parks + PDC Exposure</b>		
<b>Net Funds Required Soft Costs Parks &amp; PDC</b>		\$ 262,410.00
Waterfront Park Contract Hard - Brown	\$ 7,894,200.00	
Waterfront Park Hard Contingency	\$ 1,101,977.00	
	\$ 8,996,177.00	
Authorized WFP FCD Changes		\$ 998,256.27
WFP Hard Exposure		\$ 299,967.19
		\$ 1,298,223.46
Net Funds Available Hard Cost Contingency	\$ 1,101,977.00	
<b>Net Funds Required Hard Costs</b>		\$ 196,246.46
BES Odor Control Hard -Brown	\$ 1,412,970.00	
BES Odor Control Hard Contingency	\$ 508,383.50	
	\$ 1,921,353.50	
Authorized BES ODOR FCD Changes		\$ 356,075.12
BES Odor Control Exposure		\$ 161,163.93
		\$ 517,239.05
BES Net Funds Available Hard Cost VE & Contingency	\$ 508,383.50	
<b>BES Net Funds Required Hard Costs</b>		\$ 8,855.55

BES Odor Control Soft Costs	\$	132,328.31	
BES Odor Soft Cost Contingency	\$	46,897.00	
<b>BES Odor Soft Cost Contingency</b>	\$	<b>179,225.31</b>	
BES Odor Control Soft Exposure			\$ -
BES Odor Control Soft Contingency			\$ 46,897.00
<b>Net Funds Required Soft Costs</b>			<b>\$ -</b>
Max Retail & ATM Contract - Cedar Mill	\$	864,740.00	
Max Retail Contingency	\$	301,923.00	
	\$	<b>1,166,663.00</b>	
Authorized Max Retail FCD Changes			\$ 280,415.00
Max Retail Exposure - Cedar Mill			\$ 49,622.00
Shift WFP Work to Cedar Mill			\$ 187,000.00
Other Contracts Max Retail Costs			\$ 122,221.65
			\$ <b>639,258.65</b>
Net Funds Available Hard Costs VE & Contingency	\$	301,923.00	
<b>Net Funds Required Hard Costs</b>			<b>\$ 337,335.65</b>
Ankeny Plaza Restroom Hard & Soft	\$	700,209.00	
Ankeny Plaza Exposure	\$	-	\$ -
	\$	<b>700,209.00</b>	
Net Funds Available			\$ -
<b>Net Funds Required Hard &amp; Soft Costs</b>			<b>\$ 451,989.21</b>
PSM Interim Site Costs	\$	200,000.00	
PSM Net Funds Available			
<b>PSM Funds Required</b>			<b>\$ (4,459.00)</b>
Total Expenditures (including Contingency)	\$	<b>17,135,206.76</b>	
<b>Additional Funds Required Over Total Expenditure</b>			<b>\$ 1,252,377.87</b>