

Amendment to Project Agreement

14-102(a)
Council Approval 5/18/15

MJ
5/29/15

Project Sponsor: City of Tukwila
Project Title: Duwamish Gardens Restoration

Project Number: 13-1099R
Amendment Number: 1

Amendment Type:

Cost Change

Amendment Description:

The project agreement amount is increased by \$170,335.47 of 2013-15 PSAR, \$79,664.53 of 2011-13 PSAR and \$80,000 sponsor match to afford cost increases primarily associated with the Section 106 Consultation and mitigation of impacts to historic and pre-historic cultural resources as outlined in the MOA (PRISM Attach. No. #215119).

Project Funding:

The total cost of the project for the purpose of this Agreement changes as follows:

	Old Amount		New Amount		
	Amount	%	Amount	%	
RCO - PSAR	\$622,081.00	49.73%	\$872,081.00	55.16%	250,000
RCO - SALMON ST PROJ	\$327,353.00	26.17%	\$327,353.00	20.71%	
Project Sponsor	\$301,523.00	24.10%	\$381,523.00	24.13%	
Total Project Cost	\$1,250,957.00	100%	\$1,580,957.00	100%	
Admin Limit	\$0.00	0.00%	\$0.00	0.00%	
A&E Limit	\$110,000.00	9.64%	\$139,004.25	9.64%	

11-13 - 79,664.
13-15 - 170,335

Agreement Terms

In all other respects the Agreement, to which this is an Amendment, and attachments thereto, shall remain in full force and effect. In witness whereof the parties hereto have executed this Amendment.

State Of Washington
Recreation and Conservation Office

City of Tukwila

BY: Kaleen Cottingham
Kaleen Cottingham

AGENCY: City of Tukwila
BY: Jim Haggerton

TITLE: Director
DATE: 3/5/15

TITLE: Mayor
DATE: 5-21-15

Pre-approved as to form:

BY: IS/
Assistant Attorney General

RECEIVED
MAY 29 2015

2nd of 2 ORIGINALS

Amendment Agreement Description

Project Sponsor: City of Tukwila
Project Title: Duwamish Gardens Restoration

Project Number: 13-1099 R
Amendment Number: 1

Agreement Description

City of Tukwila proposes to complete Duwamish Gardens estuary restoration project, creating valuable shallow water habitat and native riparian vegetation on a 2.34 acre site owned by the City (Acq 06-2199) and on adjacent WADNR aquatic lands. The site is located on the right bank of the Duwamish River immediately downstream of river mile 7.0 between the Codiga Farms restoration at RM 8.5 and North Wind's Weir restoration at RM 6.4, in the high priority Duwamish Estuary "transition zone" between fresh and salt water. Off channel and shallow water habitats in this stretch of the Duwamish are needed to provide opportunities for juvenile Chinook to move out of the main channel to habitats where they can feed and rear. Longer residence times in the estuary allow for larger, healthier smolts prior to ocean migration, and thus, improved survival. The property is among the largest available site for habitat restoration remaining in the Duwamish corridor.

The new habitat will be created by excavating 30,000 cubic yards of material to establish approximately ~0.89 acre of shallow water mudflat and marsh habitat, and ~1.24 acre of restored riparian area. Additional park enhancements will include a small parking lot, pedestrian trail, and river viewpoint, to be installed with non-SRFB funds. Interpretive signs and/or art work will feature the cultural history of the area and ecological features of the site.

Amendment Special Conditions

Project Sponsor: City of Tukwila
Project Title: Duwamish Gardens Restoration

Project Number: 13-1099 R
Amendment Number: 1

Special Conditions

Amendment Special Conditions

I. Comply with Attachment A: The sponsor agrees to comply with Attachment A "EPA Provisions for Puget Sound Estuary and Restoration Projects". Attachment A is incorporated by this reference as if fully set forth herein. This project is used as state match for the National Estuary Program administered by the U.S. Environmental Protection Agency. As such, the EPA Provisions are required in addition to the RCO standard Terms and Conditions.

II. Disclosure notice:

Projects funded with state Salmon Recovery Funding Board and Puget Sound Acquisition and Restoration money may be used by RCO, the Puget Sound Partnership or Northwest Indian Fisheries Commission as match to one of the following federal assistance agreements: 1) United States Department of Commerce Catalog of Federal Domestic Assistance Number 11.438, or 2) United State Environmental Protection Agency Catalog of Federal Domestic Assistance Numbers 66.123 and 66.456.

III. Cultural Resources Consultation:

This project is subject to the National Historic Preservation Act, Section 106, and therefore appears to be exempt from Governor's Executive Order 05-05 Archaeological and Cultural Resources (EO 05-05) as described in Section 9 of this project agreement. In order for this project to be exempt from EO 05-05, the Section 106 Area of Potential Effect (APE) must include all ground-disturbing activities subject to this project agreement, including the restoration staging area. The sponsor is encouraged to work with the federal permitting agency to align the Section 106 APE with the scope of work subject to this project agreement. If the APE does not include all ground-disturbing activities subject to this project agreement, promptly notify the RCO grant manager, as this will require RCO to initiate cultural resources consultation following EO 05-05 for those activities not included in the federal APE. Completion of this consultation and a Notice to Proceed from RCO will be required before these ground-disturbing activities can begin.

IV. State Owned Aquatic Lands:

Habitat Restoration on State Owned Aquatic Lands: The in-water portion of this project occurs on state-owned aquatic lands managed by the Department of Natural Resource (DNR) on behalf of the State of Washington. The project sponsor must work with DNR's Aquatic Land Managers to secure a lease, an easement or a right of entry, as authorization to complete the restoration work. It is important for the sponsor to coordinate early with the appropriate Land Manager to avoid project delays. See the DNR Land Manager Coverage Map for contact information in your project area (http://www.dnr.wa.gov/Publications/aqr_land_manager_map.pdf). Additional information on State-owned aquatic lands can be found in Section 2 of Manual 18 (2012).

V. Contaminated Soils Remediation Ineligible:

In 2004 Gary Struthers Associates, Inc (GSA) conducted a Phase II Environmental Site Assessment (ESA) for Sound Transit on the site, and in 2008 a supplemental Phase II ESA was completed. One or more of the soil samples contained concentrations slightly or moderately exceeding the State of WA Model Toxics Control Act (MTCA) Method A or B soil cleanup levels (see Attachment 43 for additional information).

Sponsor acquired the property with funding from PRISM No. 06-2199

(<https://secure.rco.wa.gov/prism/search/projectsnapshot.aspx?ProjectNumber=06-2199>). Acquisitions Manual 3 (2010) p 46 states that "Purchase of property contaminated with any hazardous substance not meeting the MTCA's standards is ineligible for RCO grant funding." In order to avoid a compliance issue, sponsor agreed to bear the site clean-up and remediation costs. In the letter from RCO to sponsor dated Nov 22, 2011, RCO agreed that the clean-up can be delayed to coincide with the restoration work provided that by December 31, 2015 the site would be clean, or there would be a fully-funded plan in place for clean-up (06-2199 PRISM Attach 50

<https://secure.rco.wa.gov/prism/search/ProjectSnapshotAttachmentData.aspx?id=129874>).

Before putting this project out to bid, the sponsor will secure approval from RCO on a plan to 1) manage the contaminated soil clean-up and remediation in compliance with applicable state and federal laws and 2) segregate associated clean-up costs from the restoration project excavation costs. The costs of the contaminated soil clean-up including soil removal, transportation, and disposal are ineligible for reimbursement or match under this project agreement.

VI. Construction Design Deliverables:

The project will meet the standards for Design and Restoration Project Deliverables described in Manual 18 Appendix D "Construction and "Design Build" Deliverables." The preliminary and final design was completed with funding from Project Agreement No. 10-1605. For this project agreement, the sponsor must provide As-built design documents at completion of construction.

VII. PSAR funded projects:

The Puget Sound Partnership approved \$79,664.53 in 2011-2013 PSAR funding be allocated to the project as part of Cost Change Amendment #1. PSP requires this funding be fully expended and an invoice submitted to RCO for approval

Amendment Special Conditions

by Sept 30, 2015 in order to have the funding fully drawn down by November 30, 2015.

Any signage or press materials must acknowledge the Puget Sound Acquisition and Restoration Fund as well as RCO as a fund source.

Amendment Eligible Scope Activities

Project Sponsor: City of Tukwila

Project Number: 13-1099

Project Title: Duwamish Gardens Restoration

Project Type: Restoration

Program: Puget Sound Acq. & Restoration

Amendment #: 1

Restoration Metrics

Worksite #1, Duwamish Gardens

Targeted salmonid ESU/DPS:

Targeted species (non-ESU species):

Project Identified In a Plan or Watershed Assessment:

Green/Duwamish and Central Puget Sound Watershed Resource Inventory Area 9 (WRIA 9) Steering Committee, August 2005. Salmon Habitat Plan - Making Our Watershed Fit for a King. Prepared for the WRIA 9 Forum. King County, 201 S. Jackson St., Suite 600, Seattle, WA, 98104.

Type Of Monitoring:

Estuarine / Nearshore Project

Total Amount Of Estuarine / Nearshore Acres Treated: 0.9

Creation of new estuarine area

Acres of Estuary Created: 0.9

Estuarine planting or native plant establishment.

Acres of Estuarine planting or native plant establishment: 1.2

Exclusion devices

Acres Treated with exclusion devices: 0.5

Regrading of slope

Acres of Estuary Treated through slope regrading: 0.9

Removal of existing fill material

Acres of Estuary Treated through fill material removal: 0.9

General restoration activities

Restoration fencing and gates

Number of gates: 0

Linear feet of fencing: 800

Traffic control

Utility relocation / reconnection

Utilities relocated / reconnected:

Cultural Resources

Cultural resources

Includes investigations that have already been completed monitoring and data recovery during construction, and mitigation which are eligible pre-agreement expenses, not included in scope of design grant.

Permits

Obtain permits

All permits except one are paid for under the Design contract.

Architectural & Engineering

Architectural & Engineering (A&E)

Amendment Eligible Scope Activities

This includes only construction administration and construction engineering. A&E costs for preliminary design and engineering that is ongoing, and paid for by previous grants is not included.

Butler, Elizabeth (RCO)

From: Butler, Elizabeth (RCO)
Sent: Friday, February 20, 2015 2:50 PM
To: Hedden, Brent (RCO)
Subject: RE: Duwamish Gardens Cost Increase Approval

Thanks Brent!
e

From: Hedden, Brent (RCO)
Sent: Friday, February 20, 2015 2:49 PM
To: Butler, Elizabeth (RCO)
Cc: Jarasitis, Mark (RCO); Moore, Kathryn (RCO); Galuska, Tara (RCO)
Subject: RE: Duwamish Gardens Cost Increase Approval

I believe I have made the necessary corrections. Take a look and let me know if I need to change anything.

Thanks,

Brent Hedden
360-902-3007

From: Butler, Elizabeth (RCO)
Sent: Friday, February 20, 2015 1:45 PM
To: Hedden, Brent (RCO)
Cc: Jarasitis, Mark (RCO); Moore, Kathryn (RCO); Galuska, Tara (RCO)
Subject: RE: Duwamish Gardens Cost Increase Approval

Hi Brent,

Thanks! I met with Karen Bergeron of WRIA 9 this morning and we checked the allocations – looks like there is \$79664.53 in 2011-13 PSAR unobligated. We'd like to use that as part of the \$250K.

The WRIA 9 funding report last year had notes that indicated a combination of 11-13 PSAR, 13-15 PSAR and SRFB funding was to be directed to the Mill Creek project. I've attached the document here.

Perhaps the 11-13 funds were not yet added to the Mill Creek project, as I didn't see them in the line of coding. Can you add back the \$79,664.53 in 2013-15 funding to the 14-1001.

Then I will edit the Duwamish amendment to indicate the blend of 11-13 and 13-15 PSAR combining to total \$250K.

We'll add back the \$250K to the 14-1001 in July if another allocation of PSAR is allocated this year by the legislature.

Thanks for your help – and if you have any questions – please call me at 206.721.1940

Best wishes,
Elizabeth

From: Hedden, Brent (RCO)
Sent: Friday, February 20, 2015 8:12 AM
To: Butler, Elizabeth (RCO)
Cc: Jarasitis, Mark (RCO); Moore, Kathryn (RCO); Galuska, Tara (RCO)
Subject: RE: Duwamish Gardens Cost Increase Approval

Hi Elizabeth,

Sorry it took so long to get back to you....

I have gone in and decreased the LOC for 14-1001. It now reflects the reduced amount of \$107,221 in 13-15 PSAR funds.

We will not be able to add the \$250k to 13-1099 until your cost change amendment is applied.

Please let me know if you have any other questions or need me to do anything else with this one.

Thanks,

Brent Hedden
360-902-3007

From: Butler, Elizabeth (RCO)
Sent: Friday, February 13, 2015 10:59 AM
To: Hedden, Brent (RCO)
Cc: Jarasitis, Mark (RCO); Moore, Kathryn (RCO); Galuska, Tara (RCO)
Subject: FW: Duwamish Gardens Cost Increase Approval

Hi Brent,

Last summer, the day after WRIA 9 submitted their funding list for the PSAR directing funding to the Mill Creek project, they learned that the Duwamish Gardens project was in need of a cost increase. Duwamish Gardens is ready to go to construction, so the LE decided to direct PSAR from Mill Creek 14-1001 to Duwamish for the cost increase. The LE plans to add back the \$250K funds to Mill Creek as soon as possible, and are hoping the PSAR 2015-17 will be available early summer.

We've finally stepped through all the LE/PSP necessary approvals for the cost increase amendment to 13-1099 so I'm preparing a paperwork for Kaleen's approval. It is drafted -- but I need your help to adjust the line of coding. Mill Creek should decrease 13-15 PSAR from \$357,221 to \$107,221. This project is not easy to scale down to fit the lower amount of funding, so Tara and I decided we should wait to put it under agreement until the 2015-17 PSAR is available. They had not planned to start work until this fall so a slight delay in contracting does not create project delays.

Since we are not fully funding 14-1001 at this point -- do we keep it as Board Funded or move it to board pre-approved in anticipation of the 2015-17 PSAR funding that needs to be added before it goes under agreement? This is how we treated the 2014 projects that had both PSAR and SRFB funding...

Then we need to add \$250K to the line of coding for Duwamish Gardens 13-1099.

Please let me know if you need any additional information.

Thanks!
elizabeth
(206.721.1940 if you need to reach me today)

From: Bergeron, Karen [<mailto:Karen.Bergeron@kingcounty.gov>]
Sent: Friday, February 13, 2015 8:12 AM
To: Butler, Elizabeth (RCO)
Subject: Duwamish Gardens Cost Increase Approval

Elizabeth,
Ryan did a great job explaining the need for the cost increase at Duwamish Gardens and the WRIA 9 Watershed Ecosystem Forum approved the cost increase unanimously at last night's meeting.

I think it brought up a good discussion about the cultural resources, including questions from James Rasmussen with the Duwamish River Cleanup Coalition and Duwamish tribal member, and I think it was great for everyone to hear about how Tukwila has responded to the issue.

Karen

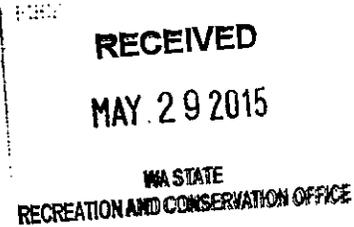


City of Tukwila
Department of Public Works

Jim Haggerton, Mayor

Bob Giberson, P.E., Director

May 26, 2015



Kaleen Cottingham, Director
Recreation and Conservation Office
P.O. Box 40917
Olympia, WA 98504-0917

Re: Signed Amendment to Project Agreement
Duwamish Gardens Restoration
Agreement #13-1099R, Amendment Number 1

Dear Ms. Cottingham:

Enclosed please find one original executed copy of Amendment Number 1 for Agreement 13-1099R between the RCO and the City of Tukwila. This agreement includes additional funding in the amount of \$250,000.00 for construction of the City's Duwamish Gardens Project.

We appreciate this additional funding as well as all previous funding provided for this project. Without this funding, the City would not have been able to complete this important habitat project. If you have any questions or need additional information regarding the Duwamish Gardens project, please contact me at (206) 431-2456.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ryan Larson".

Ryan Larson, P.E.
Senior Program Manager

Enclosures: Amendment No. 1

cc: File: 90630102-2

Natural Resources Building
1111 Washington St. S.E.
Olympia, WA 98501

P.O. Box 40917
Olympia, WA 98504-0917



(360) 902 3000
TTY (360) 902-1996
Fax: (360) 902-3026

E-mail: info@rco.wa.gov
Web site: www.rco.wa.gov

STATE OF WASHINGTON

RECREATION AND CONSERVATION OFFICE

March 2, 2015

Ryan Larson
City of Tukwila
6300 Southcenter Blvd
Tukwila, WA 98188-2544

RE: Duwamish Gardens Restoration, RCO #13-1099R
Amendment # 1

Dear Mr. Larson:

In response to your request to amend the above-referenced Project Agreement, we have reviewed the circumstances and pertinent RCWs, WACs, and program policies relating to your request. As a result, I am approving an amendment to the Duwamish Gardens Restoration project.

Enclosed are two original amendments to the Project Agreement. Please sign both amendments, retain one for your records, and return one original. If you have any questions, please call Elizabeth Butler at (360) 725-3944, or send an e-mail to elizabeth.butler@rco.wa.gov.

Sincerely,

A handwritten signature in black ink that reads "Kaleen Cottingham".

Kaleen Cottingham
Director

Enclosures

