

1 BILL NO. S-23-08-10

2
3 SPECIAL ORDINANCE NO. S-_____

4 AN ORDINANCE approving AMENDMENT NO. 1 TO
5 CONSTRUCTION MANAGER CONTRACT FOR
6 RIVERFRONT PUBLIC OPEN SPACE PHASE II
7 (Guaranteed Maximum Price - \$1,402,495.00) between
8 HAGERMAN, INC. and the City of Fort Wayne,
9 Indiana.

10 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF
11 THE CITY OF FORT WAYNE, INDIANA;

12 SECTION 1. That the following AMENDMENT NO. 1 TO CONSTRUCTION
13 MANAGER CONTRACT FOR RIVERFRONT PUBLIC OPEN SPACE PHASE IIB
14 between HAGERMAN, INC. and the City of Fort Wayne, Indiana, which Contract
15 was originally approved by this Common Council on April 19, 2022, is hereby
16 ratified, and affirmed and approved in all respects, respectfully for:

17 select demolition, storm sewer, earthwork and temporary fencing
18 for the Riverfront Public Open Space Phase IIB project. Hagerman
19 will serve as the construction manager during the construction of
20 the Project. The CMc will assume the risk of delivering the Project
through a Guaranteed Maximum Price (GMP) contract. The CMc
will be responsible for construction means and methods;

21 involving a cost of ONE MILLION FOUR HUNDRED TWO THOUSAND FOUR
22 HUNDRED NINETY-FIVE AND 00/100 DOLLARS - (\$1,402,495.00). A copy of
23 said Contract is on file with the Office of the City Clerk and is made available for
24 public inspection, according to law.
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SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Council Member

APPROVED AS TO FORM AND LEGALITY

Malak Heiny, City Attorney

AIA® Document A133® – 2019 Exhibit A

Guaranteed Maximum Price Amendment

This Amendment dated the 2nd day of August in the year 2023, is incorporated into the accompanying AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price dated the 5th day of April in the year 2022 (the "Agreement")
(In words, indicate day, month, and year.)

for the following PROJECT:
(Name and address or location)

Riverfront Public Open Space – Phase IIB

THE OWNER:
(Name, legal status, and address)

The City of Fort Wayne, Community Development Division
200 East Berry Street, Suite 320
Fort Wayne, Indiana 46802

THE CONSTRUCTION MANAGER:
(Name, legal status, and address)

Hagerman, Inc.
510 West Washington Blvd.
Fort Wayne, Indiana 46802

TABLE OF ARTICLES

- A.1 GUARANTEED MAXIMUM PRICE
- A.2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
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- A.4 CONSTRUCTION MANAGER'S CONSULTANTS, CONTRACTORS, DESIGN PROFESSIONALS, AND SUPPLIERS

ARTICLE A.1 GUARANTEED MAXIMUM PRICE

§ A.1.1 Guaranteed Maximum Price

Pursuant to Section 3.2.6 of the Agreement, the Owner and Construction Manager hereby amend the Agreement to establish a Guaranteed Maximum Price. As agreed by the Owner and Construction Manager, the Guaranteed Maximum Price is an amount that the Contract Sum shall not exceed. The Contract Sum consists of the Construction Manager's Fee plus the Cost of the Work, as that term is defined in Article 6 of the Agreement.

§ A.1.1.1 The Contract Sum is guaranteed by the Construction Manager not to exceed One million four hundred two thousand four hundred ninety-five dollars and no cent. (\$ 1,402,495.00), subject to additions and deductions by Change Order as provided in the Contract Documents.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201™–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.

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User Notes:

(1417114440)

§ A.1.1.2 Itemized Statement of the Guaranteed Maximum Price. Provided below is an itemized statement of the Guaranteed Maximum Price organized by trade categories, including allowances; the Construction Manager's contingency; alternates; the Construction Manager's Fee; and other items that comprise the Guaranteed Maximum Price as defined in Section 3.2.1 of the Agreement.

(Provide itemized statement below or reference an attachment.)

Reference Attachment A

§ A.1.1.3 The Construction Manager's Fee is set forth in Section 6.1.2 of the Agreement.

§ A.1.1.4 The method of adjustment of the Construction Manager's Fee for changes in the Work is set forth in Section 6.1.3 of the Agreement.

§ A.1.1.5 Alternates

§ A.1.1.5.1 Alternates, if any, included in the Guaranteed Maximum Price:

Item	Price
N/A	

§ A.1.1.5.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Exhibit A. Upon acceptance, the Owner shall issue a Modification to the Agreement.

(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance
N/A		

§ A.1.1.6 Unit prices, if any:

(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)
Maintain Trailer Area	Month	\$4,500.00
Maintain Stone Laydown	Month	\$4,500.00
Place and Compact Millings	Cubic Yard	\$8.00
Haul Away Contaminated Soils and Place Clean Fill	Cubic Yard	\$100.00
Remove and Replace Fence Screening	Linear Foot	\$5.00
Fencing Rental	Month	\$3,400.00
Place and Compact 12" of Stone for Laydown	Cubic Yard	\$50.00

ARTICLE A.2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ A.2.1 The date of commencement of the Work shall be:

(Check one of the following boxes.)

☐ The date of execution of this Amendment.

☒ Established as follows:

(Insert a date or a means to determine the date of commencement of the Work.)

September 18, 2023

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of execution of this Amendment.

§ A.2.2 Unless otherwise provided, the Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work. The Contract Time shall be measured from the date of commencement of the Work.

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§ A.2.3 Substantial Completion

§ A.2.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Construction Manager shall achieve Substantial Completion of the entire Work:

(Check one of the following boxes and complete the necessary information.)

☐ Not later than () calendar days from the date of commencement of the Work.

☒ By the following date: February 2, 2024

§ A.2.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Construction Manager shall achieve Substantial Completion of such portions by the following dates:

(Table deleted)

Work within this GMP Amendment shall be completed by February 2, 2024.

§ A.2.3.3 If the Construction Manager fails to achieve Substantial Completion as provided in this Section A.2.3, liquidated damages, if any, shall be assessed as set forth in Section 6.1.6 of the Agreement.

ARTICLE A.3 INFORMATION UPON WHICH AMENDMENT IS BASED

§ A.3.1 The Guaranteed Maximum Price and Contract Time set forth in this Amendment are based on the Contract Documents and the following:

§ A.3.1.1 The following Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
N/A			

§ A.3.1.2 The following Specifications:

(Either list the Specifications here, or refer to an exhibit attached to this Amendment.)

Reference Drawings

Section	Title	Date	Pages
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§ A.3.1.3 The following Drawings:

(Either list the Drawings here, or refer to an exhibit attached to this Amendment.)

Reference Attachment B

Number	Title	Date
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§ A.3.1.4 The Sustainability Plan, if any:

(If the Owner identified a Sustainable Objective in the Owner's Criteria, identify the document or documents that comprise the Sustainability Plan by title, date and number of pages, and include other identifying information. The Sustainability Plan identifies and describes the Sustainable Objective; the targeted Sustainable Measures; implementation strategies selected to achieve the Sustainable Measures; the Owner's and Construction Manager's roles and responsibilities associated with achieving the Sustainable Measures; the specific details about design reviews, testing or metrics to verify achievement of each Sustainable Measure; and the Sustainability Documentation required for the Project, as those terms are defined in Exhibit C to the Agreement.)

Title	Date	Pages
N/A		

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Other identifying information:

§ A.3.1.5 Allowances, if any, included in the Guaranteed Maximum Price:
(Identify each allowance.)

Item	Price
N/A	

§ A.3.1.6 Assumptions and clarifications, if any, upon which the Guaranteed Maximum Price is based:
(Identify each assumption and clarification.)

Hagerman has not included General Conditions beyond the timeframe listed in the contract.
Hagerman has not included hazardous material detection or abatement.
Hagerman has not included any allowances for liquidated damages of any sort.
Hagerman has not included any allowances for rock excavation or soil stabilization of any sort.
Hagerman has not included any allowances for unknown subsurface conditions, including but not limited to organics, tanks, pre-existing buried concrete, hazardous debris, etc.

§ A.3.1.7 The Guaranteed Maximum Price is based upon the following other documents and information:
(List any other documents or information here, or refer to an exhibit attached to this Amendment.)

N/A

ARTICLE A.4 CONSTRUCTION MANAGER'S CONSULTANTS, CONTRACTORS, DESIGN PROFESSIONALS, AND SUPPLIERS

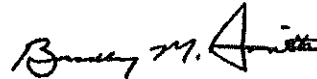
§ A.4.1 The Construction Manager shall retain the consultants, contractors, design professionals, and suppliers, identified below:
(List name, discipline, address, and other information.)

Reference A.1.1.2

This Amendment to the Agreement entered into as of the day and year first written above.

OWNER (Signature)

Garry Morr, City Controller, City of Fort Wayne
(Printed name and title)



CONSTRUCTION MANAGER (Signature)

Bradley M. Smith, President
(Printed name and title)

Int.

Attachment A

Riverfront Phase 2B

Fort Wayne, IN

Early Package Construction Documents - Bid Tab Estimate Summary

August 2, 2023



BID PACKAGES		CD ESTIMATE		NOTES
1	Bid Package 11: Demolition / Excavation / Site Work	\$	679,695	Scope as detailed in the bid packages.
2	Bid Package 12: Construction Fending	\$	192,000	Scope as detailed in the bid packages.
HARD COST (CONSTRUCTION) SUBTOTAL		\$	871,695	
SOFT COSTS				
3	Wetland Mitigation Allowance		\$	-
4	Construction Contingency		\$	43,585
5	Construction Services / Staffing (6 mo)		\$	238,333
6	Insurance		\$	11,536
7	Payment & Performance Bond		\$	11,536
8	Construction Manager Fee		\$	46,479
9	General Conditions (pass through costs)		\$	179,331
SOFT COST (NON-CONSTRUCTION) SUBTOTAL			\$	530,800
TOTAL CONCEPTUAL BUDGET		\$	1,402,495	

Attachment B

Riverfront Fort Wayne Phase 2B -- Early Bid Release

<u>DRAWING NO.</u>	<u>DESCRIPTION</u>	<u>DATE</u>
<u>GENERAL</u>		
<u>CIVIL</u>		
C001	General Notes	
C104	Existing Condition/Demolition Plan	
C105	Existing Condition/Demolition Plan	
C304	Utility Plan	
C305	Utility Plan	
C409	Grading Plan	
C410	Grading Plan	
C413	Grading Plan	
C502	Storm Plan and Profile	
C503	Storm Plan and Profile	
C504	Storm Plan and Profile	
C600	Miscellaneous Details	
C601	Miscellaneous Details	
C602	Miscellaneous Details	
C701	Structure 44 Mods	

DIGEST SHEET

TITLE OF ORDINANCE. An Ordinance approving Amendment No. 1 to the Construction Manager contract for Riverfront Public Open Space Phase II (Guaranteed Maximum Price - \$1,402,495.00) between Hagerman, Inc. and the City of Fort Wayne, Indiana.

DEPARTMENT REQUESTING RESOLUTION. Community Development

SYNOPSIS OF ORDINANCE. Approves an amendment to the contract for Construction Manager as Constructor for Riverfront Public Open Space Phase IIB between Hagerman, Inc. and the City of Fort Wayne. The amendment adds a cost of \$1,402,495.00 for select demolition, storm sewer, earthwork and temporary fencing to the original contract amount of \$45,000.00 for preconstruction services. The CMc will enter into an amended contract to serve as the construction manager during the construction of the Project. The CMc will assume the risk of delivering the Project through a guaranteed maximum price contract. The CMc will be responsible for construction means and methods. The project was publicly bid in compliance with Indiana code.

EFFECT OF PASSAGE. The project will be constructed and Hagerman, Inc. will serve as Construction Manager as Constructor for the Riverfront Public Open Space Phase II project.

EFFECT OF NON-PASSAGE. Phase II of Riverfront Public Open Space project will not be completed.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS). \$1,402,495.00 will come from Riverfront bond proceeds.

ASSIGNED TO COMMITTEE (PRESIDENT). _____



COMMUNITY DEVELOPMENT

Vibrant. Prosperous. Growing.

Thomas C. Henry, Mayor

City of Fort Wayne
Community Development
200 East Berry Street, Suite 320
Fort Wayne, IN 46802

260 427-1127 fwcommunitydevelopment.org

MEMO

To: City of Fort Wayne Common Council

Copy: City of Fort Wayne Community Development Division

From: Stacy Haviland, Community Development Administrator, 427-2147

Subject: Council Approval of Amendment No. 1 to the contract for Construction Manager as Constructor for Riverfront Public Open Space Phase II

Date: August 3, 2023

The Community Development Division hereby requests that the Common Council consider and approve Amendment No. 1 to the contract for Construction Manager as Constructor (CMc) for Riverfront Public Open Space Phase II between Hagerman, Inc. and the City of Fort Wayne. The amendment adds a cost of \$1,402,495.00 for select demolition, storm sewer, earthwork and temporary fencing to the original contract amount of \$45,000.00 for preconstruction services. The CMc will enter into an amended contract to serve as the construction manager during the construction of the Project. The CMc will assume the risk of delivering the Project through a guaranteed maximum price contract. The CMc will be responsible for construction means and methods. The project was publicly bid in compliance with Indiana code.

Bids were received for two bid packages on July 25, 2023. There were two bidders for the earthwork bid package and one bidder for the fencing bid package (see attached bid tab). After review of the bids, we recommend acceptance of the Guaranteed Maximum Price from Hagerman in the amount of \$1,402,495.00.

Please note that this amendment only covers an early bid release for a portion of the proposed Riverfront improvements. This work has been divided into two phases so that construction can begin in order to support the Schaab Riverfront Plaza private development while we wait for permits for the remainder of the project.

The second bid release for the remaining work will follow once we receive permits from the Department of Natural Resources, Indiana Department of Environmental Management, and the U.S. Army Corps of Engineers. We anticipate receiving permit approvals in September. If received then, bidding will occur October through November with City Council approval process following in December or January.

An Equal Opportunity Employer



We respectfully request your approval of this amendment so that we may proceed with the work. If you have any questions, please feel free to contact me at 427-2147.

Thank you in advance.



Stacy Haviland

An Equal Opportunity Employer

