



## Legislation Text

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**TO:** Mayor and Members of City Council

**THRU:** Douglas J. Hewett, ICMA-CM, City Manager

**FROM:** Kristoff Bauer, Deputy City Manager  
Tracey Broyles, Budget and Evaluation Director

**DATE:** December 10, 2018

**RE:**  
**Adoption of Budget Ordinance Amendment 2019-10 and Capital Project Ordinance Amendment 2019-23 for Stadium Construction**

**COUNCIL DISTRICT(S):**  
All

**Relationship To Strategic Plan:**

Goal II: Diverse and Viable Economy

- Target for Action: Ensure Project Homerun in on time and on budget

**Executive Summary:**

The final Guaranteed Maximum Price amendment to the stadium construction contract and stadium budget ordinance amendment were approved by Council March 19, 2018. Since that time, all of the diverse components of the owner preference items have been bid and the project has been challenged by weather (Hurricane Florence) and soil conditions. The Fayetteville Baseball Club, LLC ("the Woodpeckers") have also requested some design changes. As a result, the project budget needs to be increased by \$2.3 million to support project completion in accordance with the established schedule.

Council is asked to adopt Budget Ordinance Amendment 2019-10 to appropriate \$1.25 million from General Fund fund balance to provide for the City's share of the additional project budget. Council is also asked to adopt Capital Project Ordinance Amendment 2019-23 to appropriate a \$1.05 million contribution from the Woodpeckers along with the General Fund transfer to provide the needed \$2.3 million additional project appropriation for the stadium.

**Background:**

The March 19 City Council Agenda Memorandum contains a thorough description of the history of Council action related to funding the stadium that is not repeated here. The key actions from that

meeting relevant to this decision are attached for reference and include:

- An overall increase in the project budget of just under \$4.9 million (CPOA 2018-50)
- A \$500,000 decrease in the owner preference budget from \$4.4 to \$3.9 million (Stadium Overall Project Budget March 19, 2018)
- The execution of the Design Acceptance Agreement by the Woodpeckers

The owner preference budget supports the City's direct purchase of Fixtures, Furnishings, and Equipment ("FFE") for the stadium. This includes items such as the scoreboard, stadium field lights, seating (fixed and loose), concessions equipment, and more. The Council approved two significant upgrades to owner preference items. The scoreboard selected is larger than the one installed in the Spirit Park stadium in Columbia which was the basis for budget estimate. Additionally, instead of standard sodium vapor lighting which was the basis for the budget estimate, LED lighting was selected along with a lighting control module that will allow the lights to be synchronized with sound. These enhancements resulted in these items costing about \$350,000 over estimate.

The agreement with the Woodpeckers included a series of specific minimum elements that must be included in the final stadium. Representatives of the Woodpeckers have been closely involved in the design process and in the several "value engineering" efforts that have been undertaken in attempts to keep the stadium total cost within the budget established by Council. The final design that was the basis of the GMP approved in March did not clearly include all of these elements. **Further, the Woodpeckers' staff has been responsible for developing the specifications for most of the FFE items supported by the owner preference budget.** Finally, the City issued bonds to finance the project budget. Those bonds have been issued and any budget changes will not be able to be added to that financing. It was for these reasons that it was critical that the Woodpeckers sign off on the final design and budget via the attached Design Acceptance Agreement.

### Issues/Analysis:

There are three different issues generating the need for Council to consider increasing the budget appropriation for this project: Owner Preference Items, Woodpeckers Design Change Requests, and weather and soil related construction impacts.

### **Owner Preference Budget:**

When the Woodpeckers' staff finished all of the specifications for owner preference FFE items and City staff finished getting firm pricing for all of those items, the total cost thereof exceeded the \$3.9 million budget by approximately \$1 million. After discussions regarding the basis for this overage and the contractual obligations of the parties, the Woodpeckers offered to address the overage through a combination of scope reductions, Woodpeckers contributions, and additional City funding allocation. The proposed compromise was summarized as follows, and presented to the Baseball Committee on 10/16/18 at which time they concurred with the funding proposal:

Total Funding Needed	\$5,368,531
Current Funding Available	( <u>3,900,000</u> )
Additional Funding Needed	\$1,468,531
Woodpeckers' FFE Responsibility	\$ 403,214

Woodpeckers' Contribution to Owner Preference FFE's	227,257
Additional City Funding Needed	<u>838,060</u>
	\$ 1,468,531

In this table, \$403,214 represents FFE purchases that are clearly the responsibility of the Woodpeckers, but that are proposed to be purchased by the City for consistency and efficiency; \$227,257 represented a proposed additional contribution from the Woodpeckers to cover the cost of FFE purchase that are eligible for purchase by the City through the owner preference budget; and, \$838,061 represented the proposed request for additional City funding. The proposed increased contribution by the City was justified by comparing this amount to the \$350,000 overage generated by the scoreboard and LED lighting upgrades, and the City's decision to reduce the owner preference budget by \$500,000 in March.

Since 10/16/18, however, the Woodpeckers identified two errors in the information provided and have identified additional FFE items that they would like to work with the City to purchase with their funding. Their revised request as discussed in the attached letter is as follows:

Additional Funding Needed for Stadium FFE	\$1,900,000
Woodpeckers' Contribution	950,000
Additional City Funding Needed	950,000

The Woodpeckers' funding share proposed above does not match the \$1,048,630 commitment in the funding commitment letter for the reasons discussed in the next paragraph.

### **Woodpeckers Design Change Requests:**

Under the contract with the Woodpeckers, they have the right to request design enhancements at their own cost. They have requested additional signage and cameras, for example, and will be responsible for those costs. They have agreed to pay Barton Malow directly for some enhancements that they have requested, but some will flow through the construction contract as change orders and will need to be initially paid by the City and then reimbursed by the Woodpeckers. They have requested that the City include up to an additional \$67,887 in the project budget appropriation for this purpose. Staff is recommending rounding this figure to \$100,000 with the understanding that this will only be incurred up to the amount that is agreed to be reimbursed by the Woodpeckers. This is a total of \$1,050,000, which is rounding of the \$1,048,630 in the attached letter.

### **Hurricane & Soil Impacts:**

Barton Malow has submitted a \$1,530,715 claim for work and damage related to the impacts of Hurricane Florence. The claim has been submitted to the City's builder's risk insurance and to Barton Malow's flood/water gap insurance. The insurance carriers are negotiating the claims; both the total amount and the portion of the claim to be paid by each carrier. There are deductibles of \$10,000 on the City's policy and \$50,000 on Barton Malow's policy. The City will need to fund the deductibles of up to \$60,000 from the stadium project budget. Insurance proceeds from the carriers will be paid directly to Barton Malow and will not impact the City's project budget.

The City included a \$200,000 contingency in the project budget approved on March 19. This is a very small contingency for a project of this size (about .5%), but was thought adequate due to the contractor's contingency of almost 3% carried in the construction contract. This level of contingency appears to be adequate for the design clarifications, code required changes, and adjustments that

are standard in a project of this complexity. There has, however, been an unanticipated level of project impacts created by unsuitable soils and soils that have become unsuitable due to excessive rain. Staff has worked hard to mitigate this impact by developing new, low cost sources of replacement soils and self-performing some of the requested work, but it is likely that the current contingency will not be sufficient to cover all of this costs. Staff is recommending a \$240,000 supplement to the contingency in order to carry the project through to completion.

**Budget Impact:**

The project appropriation increase requested totals \$2,300,000 and is comprised of:

- FFE \$1,900,000
- Woodpecker Design Changes \$100,000
- Deductible \$60,000
- Contingency \$240,000

As the Woodpeckers will be contributing \$1,050,000, the additional share to be funded by the City totals \$1,250,000. Staff recommends appropriating the funding from available General Fund fund balance.

As of June 30, 2018, available General Fund fund balance totaled \$23.4 million and exceeded Council's policy minimum of 10% by \$6.9 million and exceeded the goal of 12% by \$3.6 million.

**Options:**

- Adopt Budget Ordinance Amendment 2019-10 and Capital Project Ordinance Amendment 2019-23 to provide the increased funding needed for the stadium project.
- Do not adopt the requested appropriation actions as presented and provide further direction to staff. Delays may impact ability to complete project on schedule.

**Recommended Action:**

Staff recommends that Council move to adopt Budget Ordinance Amendment 2019-10 and Capital Project Ordinance Amendment 2019-23 as presented.

**Attachments:**

Budget Ordinance Amendment 2019-10  
Capital Project Ordinance Amendment 2019-23  
CPOA 2018-50 Adopted March 19, 2018  
Stadium Budget Summary, March 19, 2018  
Woodpeckers' Design Acceptance  
Woodpeckers' Current Funding Commitment Letter