

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

AGENDA DATE: June 20, 2023
PUBLIC HEARING DATE: N/A
CONTACT PERSON(S) NAME AND PHONE NUMBER: Yvette Hernandez, (915) 212-1860
DISTRICT(S) AFFECTED: 8
STRATEGIC GOAL: No.7: Enhance and Sustain El Paso's Infrastructure Network
SUBGOAL: N/A

SUBJECT:

That the City Council approves the attached deductive change order in the amount of \$10,522,005.17 to Contract No. 2021-0026 Central Business District Phase IV ("Project"). The new contract amount of \$2,399,031.83 includes \$583,427.78 to be paid to the Project contractor, Lesna Construction, Inc., for illumination materials and incidentals. There is no change in contract time resulting from this change order. The City Manager, or designee, is authorized to execute any documents necessary to carry out the intent of this Resolution.

BACKGROUND / DISCUSSION:

The change order is for the deductive change order for the work not completed by Lesna Construction, Inc. in addition to the cost of materials on hand and delivery of said materials to a City of El Paso facility for the Central Business District Phase IV Project.

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

FHWA and State – 80%
CO's – 20%

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? X YES ___ NO

PRIMARY DEPARTMENT: Capital Improvement Department

SECONDARY DEPARTMENT:

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:

Yvette Hernandez

(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Council approves the attached deductive change order in the amount of \$10,522,005.17 to Contract No. 2021-0026 Central Business District Phase IV (“Project”). The new contract amount of \$2,399,031.83 includes \$583,427.78 to be paid to the Project contractor, Lesna Construction, Inc., for illumination materials and incidentals. There is no change in contract time resulting from this change order. The City Manager, or designee, is authorized to execute any documents necessary to carry out the intent of this Resolution.

APPROVED THIS _____ DAY OF _____ 2023.

CITY OF EL PASO:


Oscar Leaser
Mayor

ATTEST:

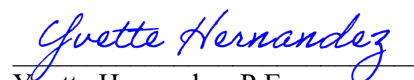
Laura D. Prine
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:



Roberta Brito
Assistant City Attorney



Yvette Hernandez, P.E.
City Engineer

CITY OF EL PASO CONSTRUCTION CHANGE ORDER

CONSTRUCTION CHANGE ORDER NO.:	7	DATE:	May 15, 2023		SCOPE CHANGE
PROJECT:	Central Business Distric Phase IV	SOLICITATION NO.	Solicitation 2021-0026 CSJ 0924-06-562		CONSTRUCTION CHANGE

Original Contract Amount: \$	12,736,130.53		Contract Time to Final Completion	415
Net Change by previous Change Orders: \$	184,906.47		Total days added due to Change Orders and CQN's	117
Net Change by previous Construction Quantity Notices: \$	-		Total days added for this Change Order	0
Amount of this Construction Change Order: \$	(10,522,005.17)		New Contract Time to Final Completion:	532
New Amended Contract Amount: \$	2,399,031.83		Current Final Due Date	1/24/2024
Change Order Percentage:	-81.16%		New final Due Date	

Contract to be terminated

CONTRACTOR NAME: Lesna Construction, Inc.

Please provide a detailed scope of work of the change order (see back for reason/justification):

Scope of Work: Compensate the contractor for remaining material on hand (134 Acorns and components).Contract will be terminated by convenience.

Specifications: Standard specifications for construction and maintenance of highways, streets and bridges. General conditions sections 4L and 9L.

Drawings: No changes in plans or specifications.

Cost and Bid Schedule:

Add line item to be included for final payment

- CO #7 Item 1 - Illumination Materials and Incidentals (Federal, State and Local Portion) for a total of \$583,427.78 (invoice cost)	\$	583,427.78
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PO Line Item Reductions

Reduce line I (Federal and State funds) by	\$	(7,608,436.67)
Reduce line II (Local funds) by	\$	(325,278.06)
Close Lines IV, V, VI VII IX and X	\$	(2,588,290.44)
Total	\$	(10,522,005.17)

Current PO Amount	\$	11,105,432.95
Remaining PO Amount after CO #7 Reduction	\$	583,427.78

Time: No additional time
Summary:

Reduce contract amount by \$10,522,005.17
NO CHANGE in contract time.

Work described above shall be performed in accordance to applicable specifications, special provisions, terms and conditions of the original contract. Unless specifically noted, this change order addresses all compensation for time, money, material, equipment, labor, tools, and incidentals including all direct and indirect costs associated with the scope of work.

WORKING DAYS ADDED TO CONTRACT TIME:	0	TOTAL CHANGE ORDER AMOUNT:	\$	(10,522,005.17)
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CONTRACTOR

I, _____, of _____ Lesna Construction, Inc. agree and accept the terms and conditions of this change order.

Signature: _____ Date: _____

CITY OF EL PASO (OWNER)

I, Yvette Hernandez, P.E. of the City of El Paso hereby authorize and direct the Contractor to proceed with additional work as described in this form.

Signature: _____ Date: _____

Yvette Hernandez, P.E.

CITY OF EL PASO CONSTRUCTION CHANGE ORDER- Pg. 2

CONSTRUCTION CHANGE ORDER NO.: 7 DATE: May 15, 2023

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 SCOPE CHANGE

PROJECT: Central Business Distric Phase IV SOLICITATION NO. on 2021-0026CSJ 0924- CONSTRUCTION CHANGE

Project Number PCP19TRAN03 PURCHASE ORDER # 2200000031

Class 38170/28300/28320/38290/38030/38230

Department 190

Fund 4950/4710/4510/4743/4970

Account 580272

CONTRACTOR NAME: Lesna Construction, Inc.

PROVIDE REASON/JUSTIFICATION FOR CHANGE ORDER:

The change order is necessary in order to compensate the contractor for materials on hand and to deliver material on hand to the City's facility since contract 2021-0026 for this project will be terminated.

Price and Time:

In August 17, 2022 the contractor initially requested the compensation of \$158,357.67 for Project Overhead costs under Time Suspension Period (Time Impacts II). Request was rejected due to General Conditions 4.6.2 Project Overhead "Time extensions and suspensions alone will not be justification for reimbursement for the project overhead". Breakdown of overhead costs was requested in August 22, 2022.

In October 28, 2022 contractor requested a compensation of \$1,138,028.12 for Time Impacts II. Request for compensation included submittal process, RFI's, meetings, schedules, payments, payrolls, material on hand, contractor costs and additional bond costs. This request was rejected on December 23, 2022 due to the claim including un-reimbursable items and missing supporting documentation.

In January 31, 2023 contractor requested a compensation of \$853,113.94. Request for compensation included illumination materials costs, subcontractor costs, additional bond costs and expenses of termination settlement. Request was rejected on February 17, 2023 due to the claim including un-reimbursable items and missing supporting documentation.

In February 24, 2023 contractor requested a compensation of \$627,481.55. Request for compensation included:

*Illumination materials and incidentals with a total cost of \$583,427.78 based on material invoices. This cost has been accepted and will be included in this CO.

*Subcontractor costs to deliver illumination materials to a City facility with a cost of \$8,256.79. This cost has been accepted based on independent cost estimate (attached) using Equipment Watch. This will be paid as part of CO#8.

*Subcontractor markup with a cost of \$29,584.29, this cost was based on 5% of the materials and subcontractor cost. This item has been rejected since subcontractor markup can only be added to subcontractor costs and not materials as per section 9L of the General Requirements and Covenants. Only \$412.84 will be included in CO#8.

*Additional bond with a cost of \$6,212.69, this cost was based on 1% of the materials and subcontractor cost. This item has been rejected since additional bond costs can only be added to subcontractor costs and not materials as per section 9L of the General Requirements and Covenants. Only \$82.57 will be included in CO#8.

0 TOTAL CHANGE ORDER AMOUNT: \$ (10,522,005.17)

Project Manager recommends approval: _____

Engineering Division Manager recommends approval: Margaret K Schroeder

Financing Department approval: _____
(If Required)

REQUEST FOR PO INCREASE/DECREASE FOR CHANGE ORDER

CONSTRUCTION CHANGE ORDER NO.: 7 DATE: May 15, 2023 INCREASE
 PROJECT: Central Business Distric Phase IV SOLICITATION NO. on 2021-0026CSJ 0924- DECREASE

Project Number PCP19TRAN03
 Class 38170/28300/28320/38290/38030/38230 PURCHASE ORDER # 2200000031
 Department 190
 Fund 4950/4710/4510/4743/4970
 Account 580272

CONTRACTOR NAME: Lesna Construction, Inc.

AS A RESULT OF THIS CHANGE ORDER, PLEASE MAKE THE FOLLOWING ADJUSTMENT TO THE PUCHASE ORDER:

LINE	ADDED AMOUNT
1	\$ (7,608,436.67)
2	\$ (325,278.06)
4	\$ (46,372.54)
5	\$ (1,305,101.40)
6	\$ (862,388.50)
7	\$ (245,502.00)
9	\$ (528.79)
10	\$ (128,397.21)

TOTAL NET CHANGE TO
PURCHASE ORDER

-\$10,522,005.17

(should match cost below)

Additional funding/direction:

TOTAL CHANGE ORDER AMOUNT: -\$10,522,005.17

Project Manager _____

Engineering Division Manager recommends approval: Margaret K Schroeder

Contract Compliance _____