

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

**AGENDA DATE:** April 12, 2022  
**PUBLIC HEARING DATE:** Not Applicable

**CONTACT PERSON(S) NAME AND PHONE NUMBER:**

Sam Rodriguez, Chief Operations and Transportation Officer, Aviation Director  
and City Engineer, (915) 212-1845  
Claudia A. Garcia, Interim Director of Purchasing & Strategic Sourcing,  
(915) 212-1218

**DISTRICT(S) AFFECTED:** 8

**STRATEGIC GOAL:** No. 4: Enhance El Paso's Quality of Life through Recreational, Cultural and Educational Environments

**SUBGOAL:** 4.1: Deliver bond projects impacting the quality of life across the city in a timely and efficient manner

**SUBJECT:**

That the Purchasing Director is authorized to notify MARTINEZ BROS. CONTRACTORS, LLC, that the City is terminating all remaining work under Contract: 2021-0260 Modesto Gomez Park Improvements effective April 12, 2022, without cause, pursuant to the provisions and requirements of Paragraph 6.9.2 of the Contract Clauses due to the necessity to modify the scope of work with an associated cost increase in excess of 25% of the initial contract value in violation of Texas Local Government Code Title 8 Subtitle C Chapter 271 Section 271.060(c).

**BACKGROUND / DISCUSSION:**

City Council authorized award of Contract 2021-260 Modesto Gomez Park Improvements to MARTENIZ BROS. CONTRACTING, LLC, for \$1,986,506.88 on February 2, 2021. Following initiation of construction, a number of design inconsistencies were discovered as part of construction due diligence that required significant modifications to design plans. These modifications increased the cost of the project to approximately \$4M. The City is unable to issue a change order to the contract as it would be in excess of 25% of the initial contract value which is prohibited under Texas Code Title 8 Subtitle C Chapter 271 Section 271.060 (c).

The City anticipates re-advertising the project for bid in by June of 2022 and is pursuing allowable cost recovery remedies from the engineer of record.

**SELECTION SUMMARY:**

N/A

**CONTRACT VARIANCE:**

N/A

**PROTEST**

No protest received for this requirement.

**PRIOR COUNCIL ACTION:**

Contract 2021-0260 Modesto Gomez Park Improvements was awarded by City Council on February 2, 2021

**AMOUNT AND SOURCE OF FUNDING:**

N/A

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? ☒ YES ☐ NO

PRIMARY DEPARTMENT: Capital Improvement  
SECONDARY DEPARTMENT: Parks and Recreation

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\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

DEPARTMENT HEAD:

  
\_\_\_\_\_  
Sam Rodriguez, Chief Operations and Transportation Officer, Aviation Director and City Engineer

**COUNCIL PROJECT FORM  
(Termination)**

\*\*\*\*\***POSTING LANGUAGE BELOW**\*\*\*\*\*

Please place the following item on the **Consent agenda** for the Council Meeting of **April 12, 2022.**

**STRATEGIC GOAL: No. 4: Enhance El Paso's Quality of Life through Recreational, Cultural and Educational Environments**

The linkage to the Strategic Plan is subsection 4.1 - Deliver bond projects impacting the quality of life across the city in a timely and efficient manner

That the Purchasing Director is authorized to notify MARTINEZ BROS. CONTRACTORS, LLC, that the City is terminating all remaining work under Contract: 2021-0260 Modesto Gomez Park Improvements effective April 12, 2022, without cause, pursuant to the provisions and requirements of Paragraph 6.9.2 of the Contract Clauses due to the necessity to modify the scope of work with an associated cost increase in excess of 25% of the initial contract value in violation of Texas Local Government Code Title 8 Subtitle C Chapter 271 Section 271.060(c).

Department: Capital Improvement  
Districts: 8

DATE: 8/3/2018

## RESOLUTION

**WHEREAS**, on February 2, 2021 the City of El Paso ("City") awarded Contract No. 2021-0260 Modesto Gomez Park Improvements to Martinez Bros. Contracting, LLC for \$1,986,506.88 ("Vendor"):

**WHEREAS**, the City desires to terminate the Contract without cause and for convenience, pursuant to the provisions and requirements of paragraph 6.9.2 of the Contract due to the necessity to modify the scope of work with an associated cost increase in excess of 25% of the initial contract value in violation of Texas Local Government Code Title 8 Subtitle C Chapter 271 Section 271.060(c)

**NOW, THEREFORE, BE IT RESOLVED BY CITY COUNCIL OF THE CITY OF EL PASO:**

That the Purchasing & Strategic Sourcing Director is authorized to notify Vendor that the City is terminating awarded Contract No. 2021-0260 Modesto Gomez Park Improvements for convenience, pursuant to the provisions and requirements of the Contract, and that the termination shall be effective as of April 12, 2022.

**APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**THE CITY OF EL PASO:**

\_\_\_\_\_  
Oscar Leeser  
Mayor

**ATTEST:**

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Laura D. Prine  
City Clerk

**APPROVED AS TO FORM:**

*Russell Abeln*  
\_\_\_\_\_  
Russell T. Abeln  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

*Claudia A. Garcia*  
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Claudia Garcia, Interim Director  
Purchasing and Strategic Sourcing

**APPROVED AS TO CONTENT:**

*Jerry DeMuro/for*  
\_\_\_\_\_  
Sam Rodriguez, P.E., City Engineer  
Capital Improvement Department