



HISTORIC  
FRANKLIN  
TENNESSEE

ITEM #23  
BOMA  
01/25/2011

## MEMORANDUM

January 10, 2011

TO: Board of Mayor and Aldermen

FROM: Eric S. Stuckey, City Administrator  
David Parker, City Engineer  
Eric J. Gardner, P.E., Director of Engineering  
William G. Banks, Staff Engineer I

SUBJECT: Franklin Corridor and Connector Streets Economic Development Project: Segment One  
3<sup>rd</sup> Avenue North and 5<sup>th</sup> Avenue North  
Final Change Order (CO #9) – Updated Final Close Out Costs

### Purpose

The purpose of this memorandum is to bring forward Change Order #9 for the 3<sup>rd</sup> Avenue North and 5<sup>th</sup> Avenue North Streetscape Project, which will closeout this contract.

### Background

The 3<sup>rd</sup> Avenue North and 5<sup>th</sup> Avenue North construction contract began on June 16<sup>th</sup>, 2008. Construction of this project was substantially complete on August 14<sup>th</sup>, 2009.

On April 28<sup>th</sup>, 2009, BOMA approved Change Orders #1 and #3, increasing the amount of work performed by the contractor (included additional festival and electrical provisions for 3<sup>rd</sup> Avenue North and added the 3<sup>rd</sup> Avenue North 10" water line). Change Order #2 was not approved. On August 25<sup>th</sup>, 2009, BOMA approved Change Order #4 which extended the contract time by 60 days (needed to cover the installation of Change Order #1 and #3 items). On October 13, 2009, BOMA approved Change Order #5, which increased the construction contract amount to cover needed and required changes to complete the job correctly. On November 24, 2009, BOMA approved Change Order #6 for the installation of a decorative stone wall at 138 3rd Avenue North (recently completed in March 2010). On May 25, 2010, BOMA approved Change Order #7 to provide water service to 232 Public Square (an additional ¾" water service line connection off of 3<sup>rd</sup> Avenue North). On July 27, 2010, BOMA approved Change Order #8 which was supposed to be the Final Change Order.

This new Final Change Order (CO #9) includes two additional line item overruns and two line item unit price changes. When Change Order #8 was brought to the Board, staff had verbally been told by the Contractor (Civil Constructors, Inc.) that they were in agreement. After BOMA approved Change Order #8, staff sent it to the Contractor for signatures. While reviewing the approved Change Order #8, the contractor noticed certain line items that they felt required further review. Numerous meetings and conference calls with the Construction Administration Consultant (E.G.&G., Inc.) and the Contractor were held to reconcile these four disputed line items.

The first two line items in dispute are Asphalt Paving line items #28 and #29. The line item quantities approved for these in CO #8 showed a decrease to the contract. But, no deduction to these should have occurred. After conferring with our consultant, these need to be added back into the contract because they were actually installed.

The table below shows the asphalt line item specifics:

### **Additional Paving Quantities:**



ITEM #	DESCRIPTION	UNIT PRICE	UNIT	QUANTITY	AMOUNT
28	Aggregate (BPMB-HM) Grading A-S Mix	\$83.20	TON	93.64	\$7,790.85
29	Asphalt Concrete Mix (PG64- 22) (BPMG-HM) Grading BM- 2	\$83.35	TON	52.66	\$4,389.21
<b>Total</b>					<b>\$12,180.06</b>

The remaining two line items in dispute are Road & Drainage Excavation line items #24 and #316. Change Order #1 originally deducted R&D after a renegotiated R&D unit price was made between the consultant and contractor, which saved the City \$157,113.45. It is important for the Board to understand that the contractor did not have to renegotiate the unit price of this item and only did so because they felt it would continue a good working relationship between the City and the contractor. It has now come to our attention that the original intent for the renegotiated line items was unclear, and both the consultant and contractor moved forward thinking different interpretations of the agreement. The consultant believed that the unit price changed for all quantities dealing with those particular line items, while the contractor believed that they were only changing the unit price for a particular amount on those line items. The City realizes there is a misunderstanding as to the extent of the quantity amounts that pertained to the renegotiated line item unit costs. It is our interpretation that the renegotiated costs should reflect the correct quantity amounts, which means a cost increase reflected in this change order, but still an overall savings of \$53,031.88 for the City.

As it stands now, the original R&D Excavation (item 24) was 2,259CY @ \$84.55/CY, which would have totaled \$190,998.45. The existing R&D Excavation (item 316) changed this to 2,259CY @ \$15.00/CY, for a total of \$33,885.00. Per earlier meetings and conference calls with Civil, we are okay with keeping these changes only for the Change Order #1 quantities of 762.50CY. The breakdown is as follows:

**ORIGINAL CONTRACT UNIT PRICE**

ITEM #	DESCRIPTION	UNIT PRICE	UNIT	QUANTITY	AMOUNT
24	Road & Drainage Excavation	84.55	CY	2259.00	\$190,998.45

**CHANGE ORDER #1 and #8 UNIT PRICE CHANGES (Civil is disputing item #24's deduction)**

ITEM #	DESCRIPTION	UNIT PRICE	UNIT	QUANTITY	AMOUNT
24	Road & Drainage Excavation	84.55	CY	-2259.00	-\$190,998.45
316	Road & Drainage Excavation	15.00	CY	2259.00	\$33,885.00
Contract Change=					-\$157,113.45

**PROPOSED FINAL COSTS (Reinstated Item #24)**

ITEM #	DESCRIPTION	UNIT PRICE	UNIT	QUANTITY	AMOUNT
316	Road & Drainage Excavation	15.00	CY	-2259.00	-\$33,885.00
24	Road & Drainage Excavation	84.55	CY	1496.50	\$126,529.08
316	Road & Drainage Excavation	15.00	CY	762.50	\$11,437.50

**Amount not yet approved by BOMA (\$126,529.08 + \$11,437.50 - \$33,885.00) = \$104,081.58**



Even with this proposed Road & Drainage Excavation line item payment increases, the City will still save \$53,031.88 because of the renegotiation between the consultant and the contractor.

In conclusion:

The two asphalt line items (\$12,180.06) plus the two Road & Drainage Excavation line items (\$104,081.58) equal a total possible contract increase of \$116,261.63.

After the City reviewed all documentation and listened to both the consultant's and contractor's view points, the City met with Civil to see if they would be willing to compromise on the difference they felt owed to them. To make sure this issue was handled as swiftly as possible, and without enduring any further delays, Civil proposed a final payment of \$92,180.06 for project close out. This could be an additional \$24,081.57 in savings for the City (\$24,081.57 less than what Civil originally requested). With the renegotiated Road & Drainage Excavation costs, and the proposed final compromise, the City could end up saving a total of \$77,113.45.

#### **Financial Impact / Options**

1. Approve the Final Change Order (CO #9) for the total amount originally requested by Civil Constructors, Inc. at an increase to the contract of \$116,261.63 (includes the full amounts for the four line item increases).
2. Approve the Final Change Order (CO #9) for the proposed compromise by Civil Constructors, Inc. at an increase to the contract of \$92,180.06.
3. Disapprove Change Order #9. Inform the Contractor that the City has already approved the Final Change Order (CO #8) for the project and let them determine whether they will sign that change order or seek some other action.

#### **Financial Impact**

Increase the current contract with Civil Constructors, Inc. in an amount as approved by BOMA depending on which option is chosen.

#### **Recommendation**

Staff recommends approval of Option 2 for the Final Change Order (CO #9) with Civil Constructors, Inc., thereby increasing the current contract amount of \$5,122,940.50 by \$92,180.06 for a final construction contract close out amount of \$5,215,120.56.