

City of Las Cruces®

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Council Action and Executive Summary

Item # 19 Ordinance/Resolution# 10-318 Council District: 6

For Meeting of June 21, 2010
(Adoption Date)

TITLE: A RESOLUTION AUTHORIZING CHANGE ORDER NUMBER ONE TO OBTAIN COUNCIL APPROVAL TO ADD 43 WORKING DAYS TO THE CONTRACT TIME AND INCREASE THE CONTRACT AMOUNT BY \$102,875.90 FOR THE TELSHOR BLVD/LOHMAN AVE INTERSECTION IMPROVEMENTS, PROJECT NUMBER 08-09-610, NMDOT PROJECT NUMBER ST-4532(200)01, CN:G2S7512.

PURPOSE(S) OF ACTION: TO OBTAIN COUNCIL APPROVAL TO ADD 43 WORKING DAYS TO THE CONTRACT TIME AND INCREASE THE CONTRACT BY \$102,875.90 AS PART OF CHANGE ORDER NUMBER ONE TO MORROW ENTERPRISES, INC.

Name of Drafter: David Sedillo		Department: Public Works <i>DS</i>		Phone: 528-3105	
Department	Signature	Phone	Department	Signature	Phone
Originating Department	<i>[Signature]</i>	3333	Budget	<i>[Signature]</i>	2300
Utilities	<i>[Signature]</i>	528-3636	Assistant City Manager	<i>[Signature]</i>	2221
Legal	<i>[Signature]</i>	311-2129	City Manager	<i>[Signature]</i>	2076

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

On July 6, 2009 the City of Las Cruces, City Council awarded the Telshor Blvd/Lohman Ave Intersection Improvements Project to Morrow Enterprises, Inc. in the amount of \$1,872,241.72 plus \$139,247.98 for New Mexico Gross Receipt Tax. The City Manager is authorized to approve change orders in an amount not to exceed \$274,832.36 for a total project authorization in the amount of \$2,286,322.06.

The project involves a full reconstruction of Telshor Boulevard roadway including installation of a storm drain system on Telshor Boulevard; from Lohman Avenue north to the Telshor Boulevard/Home Depot private road intersection. The project also includes the following: roadway widening, sidewalk modifications for A.D.A. compliance and median reconfiguration on Telshor Boulevard from Lohman Avenue south for approximately 500 feet; mill/inlay of the existing pavement on Lohman Avenue from Telshor Boulevard east for approximately 300 feet; construction of a right-turn lane on Lohman Avenue for west-bound traffic; traffic signal modifications at Telshor Boulevard/Foothills Drive intersection; replacement of existing steel gas lines with poly gas lines on Telshor Boulevard and minor sewer line work at the Telshor Boulevard/Lohman Avenue intersection.

The contractor is substantially complete on the project. However, the amount of time that

(Continue on additional sheets as required)

must be added to this contract exceeds the City Manager's 10% authorization amount as specified in Resolution 93-211. Staff is also requesting that the following changes be approved with corresponding costs:

1. Staff is requesting that Council approves \$65,436.27 for additional work previously approved by the City Manager in accordance with City Policy on October 17, 2009 and March 3, 2010. This work is described in the City Manager's Authorization #1 and #2 attached herin as Exhibit "A".
2. Staff is requesting Council approve \$28,242.10 for the additional work on Foothills Drive that reconfigured the striping layout to efficiently clear traffic in the west bound direction at the intersection.
3. Staff is asking Council to review the proposal from Morrow Enterprises, Inc. in the amount of \$9,197.53 to install the City requested landscaping at the intersections of Lohman Avenue/Telshor Blvd and Telshor Blvd/Foothills Drive.

The first requested change identified above includes previously authorized work as noted herein:

- a. The east side of Telshor Boulevard was modified to address storm runoff that did not reach an existing drainage rundown on the west side of Telshor Blvd. Although the original project scope of work called for a mill/inlay of the asphalt over this area it did not address the ponding of the water on the east side of Telshor Blvd. The storm drain work on Telshor Boulevard was added to address the existing roadway condition that forced water to pond and caused deterioration of the existing asphalt. More importantly it created an unsafe driving environment for the traveling public.
- b. Replacement of the original bid item "reflective painted markings" with permanent marking tape. Installation of the permanent marking tape will increase the life span of the markings to seven years and decrease the city's maintenance costs of repainting the markings every three to four months. This also minimized the interruption of traffic flow at one of the city's busiest intersections and thoroughfares to one application during the existing interruption of project construction and significantly reduced future interruptions. The cost of this work was \$65,436.27.

The second requested change identified above covers work at Foothills Drive to allow for reconfiguration of the striping layout on the roadway at the intersection of Telshor Blvd/Foothills Drive. Foothills Drive was milled/inlayed and striped to add another left hand turn lane on Foothills Drive. The original scope of work did not include this work but was determined by staff that the change would greatly increase the intersection's efficiency and timing by incorporating this work. The cost of the work was \$28,242.10.

The third request is presented for work in the amount of \$9,197.53 to landscape several areas of the project that were not addressed in the original contract. The areas to be landscaped are at both intersections of Telshor Boulevard/Lohman Avenue and Telshor Boulevard/Foothills Drive. This work is proposed to address both future maintenance costs from weed irradiation, dust control concerns, and to beautify the area.

(Continue on additional sheets as required)

Lastly, a total of 43 working days need to be added to the contract in order to avoid unduly penalizing the contractor for delays outside his control. The time delays are as follows: 39 days for additional work and 4 days for rain. A detailed breakdown of the proposed time extensions are attached in Exhibit "A", Attachment #2.

In summary, staff recommends that the Telshor Blvd/Lohman Ave Intersection Improvements Project be increased by \$102,875.90 and that 43 working days be added to the contract time.

SUPPORT INFORMATION:

Fund Name / Account Number	Amount of Expenditure	Budget Amount
State Street Improvement Fund 42806010-854121-70Y02	\$102,875.90	\$3,705,000.00

1. Resolution
2. Change Order One, attached as Exhibit "A".

OPTIONS / ALTERNATIVES:

1. Vote "Yes" on the Resolution approving the Change Order Number One to obtain Council approval to add 43 working days to the contract time and increase the contract amount in the amount of \$102,875.90 to Morrow Enterprises, Inc. for the Telshor Blvd/Lohman Ave Intersection Project, project number 08-09-610, NMDOT ST-4532(200)01, Control Number G2S7512.
2. Vote "No" on the Resolution and reject the proposed Change Order Number One. Disapproval of Change Order Number One to obtain Council approval to add 43 working days to the contract time and increase the contract amount by \$102,875.90. Rejection of Change Order Number One may subject the City to a claim from the contractor for payment due for services rendered as all authorized work on the project has been completed. Further, rejecting the contract time extension will cause staff to assess liquidated damages against the contractor in an amount to be determined as contract time is currently suspended. This may subject the City to a claim by the contractor for damages occasioned by City delays.
3. Modify the proposed change order and instruct staff to seek an alternative course of action. This will further delay final payment and may subject the City to a claim from the contractor for interest due on the amount owed as payment was not made within the 20 working day time period as specified in the Prompt Payment Act.

(Continue on additional sheets as required)

RESOLUTION NO. 10 - 318

A RESOLUTION AUTHORIZING CHANGE ORDER NUMBER ONE TO OBTAIN COUNCIL APPROVAL TO ADD 43 WORKING DAYS TO THE CONTRACT TIME AND INCREASE THE CONTRACT AMOUNT BY \$102,875.90 FOR THE TELSHOR BLVD/LOHMAN AVE INTERSECTION IMPROVEMENT PROJECT, PROJECT NUMBER 08-09-610, NMDOT PROJECT NUMBER ST-4532(200)01, CN:G2S7512.

The City Council of Las Cruces is informed that:

WHEREAS, on July 6, 2009 the City of Las Cruces, City Council awarded the Telshor Blvd/Lohman Ave Intersection Project to Morrow Enterprises, Inc. in the amount of \$1,872,241.72 plus \$139,247.98 for New Mexico Gross Receipt Tax. The City Manager is authorized to approve change orders in an amount not to exceed \$274,832.36 for a total project authorization in the amount of \$2,286,322.06. As part of the GRIP 2 Cooperative Project Agreement the New Mexico Department of Transportation is contributing a maximum of \$3,705,000.00 to assist in the funding of the project, and

WHEREAS, authorized additional work in accordance with City Policy on October 17, 2009 and March 3, 2010 in the amount of \$65,436.27 has been approved by the City Manager to address storm runoff on Telshor Blvd and permanent pavement marking throughout the project, and

WHEREAS, staff is requesting approval in the amount of \$28,242.10 for work on Foothills Drive to reconfigure the striping at the intersection of Telshor Blvd/Foothills Drive to add another left hand turn to increase the efficiency and timing at the intersection, and

WHEREAS, staff is requesting review and approval in the amount of \$9,197.53 of the contractor's cost proposal for city requested landscaping at both the Telshor Blvd/Lohman Ave and Telshor Blvd/Foothills Drive intersections to address both future maintenance costs from weed irradiation, dust control concerns, and to beautify the area, and

WHEREAS, staff is requesting authorization to add a total of 43 working days contract time in order to avoid unduly penalizing the contractor for delays outside his control, and

NOW, THEREFORE, Be it resolved by the governing body of the City of Las Cruces:

(I)

THAT, the Change Order Number One to obtain Council approval to add 43 working to the contract time and increase the contract amount in the amount of \$102,875.90 plus the addition of 43 additional working days is hereby authorized and approved.

(II)

THAT, the City Manager is hereby authorized to approve Change Order Number One to obtain Council approval to add 43 working to the contract time and increase the contract amount by \$102,875.90.

(III)

THAT, City Staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE AND APPROVED this _____ day of _____, 2010

ATTEST:

APPROVED:

City Clerk

Mayor

Moved by: _____

VOTE:

Seconded by: _____

Mayor Miyagishima: _____

Councillor Silva: _____

Councillor Connor: _____

Councillor Pedroza: _____

Councillor Small: _____

Councillor Sorg: _____

Councillor Thomas: _____

APPROVED AS TO FORM:



City Attorney

Exhibit "A"

THE CITY COUNCIL IS INFORMED OF THE FOLLOWING INFORMATION CONCERNING THIS CHANGE ORDER:

**I. PROJECT NAME: Telshor Blvd/Lohman Ave Intersection Improvements,
Project Number 08-09-610
NMDOT Project No. ST 4532(200)01, CN:G2S7512**

II. PROJECT SUMMARY:

Award Amount:	<u>\$1,872,241.72</u>	Original Contract Time:	<u>196</u>	Working Days
Change Order One:	<u>\$102,875.90</u>	Change Order #1 Time:	<u>43</u>	Working Days
Revised Project Cost:	<u>\$1,975,117.62</u>	Revised Contract Time:	<u>239</u>	Working Days
Total Cost Increase:	<u>5.49%</u>	Time Increase:	<u>21.94%</u>	

III. DESCRIPTION OF CHANGE:

Change Order Number One to obtain Council approval to add 43 working to the contract time and increase the contract amount by \$102,875.90 is being presented to address the increase in both cost and time to Morrow Enterprises, Inc. in the amount of \$102,875.90 and 43 working days.

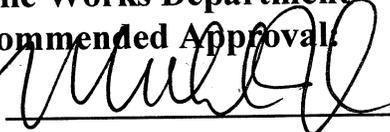
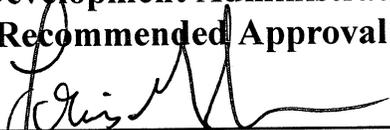
IV. REASON FOR CHANGE:

1. The storm drain work on Telshor Boulevard was added to address the existing roadway condition that forced water to pond and caused deterioration of the existing asphalt. More importantly it created an unsafe driving environment for the traveling public. Although the original project scope of work called for a mill/inlay of the asphalt over this area it did not address the ponding of the water on the east side of Telshor Boulevard. The installation of the permanent marking tape will increase the life span of the markings to seven years and decrease the city's maintenance costs of painting the markings every three to four months. This also minimized the interruption of traffic flow at one of the city's busiest intersections and thoroughfares to one application during the existing interruption of project construction and significantly reduced future interruptions. The cost of this work was \$65,436.27.
2. The work on Foothills Drive to reconfigure the striping layout was included to increase the intersection's efficiency and timing. The work included mill/inlay and striping to add a left hand turn lane in the west bound direction at the intersection of Telshor Blvd/Foothills Drive. The cost of this work was \$28,242.90.
3. The city has requested and received a proposal from Morrow Enterprises, Inc. in the amount of \$9,197.53 to landscape several areas of the project that were not addressed in the original contract. The areas to be landscaped are at both intersections of Telshor Boulevard/Lohman Avenue and Telshor Boulevard/Foothills Drive. This work is proposed to address both future maintenance costs from weed irradiation, dust control concerns, and to beautify the area.

- 4. A total of 43 working days need to be added to this contract – 39 for additional work and 4 for rain delays.

V. DETAILED COST OF CHANGE:

- 1. See Attachment #1 for City Manager Authorizations #1 and #2.
- 2. See Attachment #2 for a complete breakdown of the time extensions/deletions.

Accepted for the Contractor:	Contracts Administration Division
Firm: <u>Morrow Enterprises, Inc.</u>	Recommended Approval:
By: <u></u>	By: <u></u>
Title: <u>Asst. Secretary</u>	Title: <u>Contracts Administrator</u>
Date: <u>6-3-10</u>	Date: <u>6-3-10</u>
Utilities Department Recommended Approval:	Public Works Department Recommended Approval:
By: <u>N/A</u>	By: <u></u>
Title: <u>Utilities Director</u>	Title: <u>Public Works Director</u>
Date: _____	Date: <u>6.4.10</u>
Project Development Administration Division Recommended Approval:	City Manager Recommended Approval:
By: <u></u>	By: _____
Title: <u>Design Engineer</u> <u>Project Dev. Administrator</u>	Title: _____
Date: <u>June 3, 2010</u>	Date: _____



INTER-DEPARTMENTAL MEMORANDUM

TO: Terrence Moore, City Manager
THRU: Mike Johnson, Public Works Director *MDJ RECOMMEND*
THRU: David Maestas, Contracts Administrator *DM*
THRU: Carl Clark, Senior Engineer *CC*
FROM: David Sedillo, Project Manager *DS* *APPROVAL*

SUBJECT: Telshor Blvd./Lohman Ave. Intersection Improvement Project; Project No. 08-09-610 NMDOT Project No. ST-4532(200)01; Control No. G2S7512
Additional Work Change Order

DATE: October 14, 2009

FILE NO.: PW 09-703

Please accept this request to authorize a new installation in lieu of an existing bid item for the referenced project.

This request is being submitted to cover the installation of permanent marking tape instead of the original bid item of 4" Reflective Painted Marking throughout the project at the estimated bid quantity. The installation of permanent marking tape will increase the life span of the markings to seven years and decrease the city's maintenance costs of refreshing the painted markings every three to four months. The installation will allow for minimal interruption of traffic flow to a one time application, at one of the city's busiest intersection and thoroughfares, with the new construction.

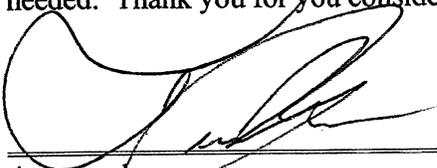
As part of the Telshor Blvd/Lohman Ave Intersection Improvement project the new installation will improve visibility of the markings along the roadway and in the intersection. This also allows for a cost savings in maintenance costs as the application of the markings will be installed once over a seven year period and keep from future interruptions in traffic flows.

Therefore, the Public Works Department requests the use of your approved contingency amount to increase the Telshor Blvd/Lohman Ave Intersection Improvement by \$27,627.23. This is within the City Manager's authorization amount of \$274,832.36. Disapproval of Change Order Number One will reject the proposed cost increase and direct Staff to seek alternative ways of constructing the project while keeping the project within the Council award amount.

Pending approval, funds will be made available in the following accounts:

Telshor-Lohman Ave Intersection Imp
42806010-854121-70Y02; \$27,627.23

Right now, the contractor has completed approximately twenty percent of the original scope of work and is on schedule. Therefore, your expeditious response would be greatly appreciated and would facilitate the timely completion of this project. Please advise if additional information is needed. Thank you for your consideration in this matter.



Approved

Terrence Moore, City Manager

10/17/09

Date



INTER-DEPARTMENTAL MEMORANDUM

TO: Terrence Moore, City Manager *MDS*
THRU: Mike Johnson, Public Works Director
THRU: David Maestas, Contracts Administrator *DM*
FROM: David Sedillo, Project Manager *DS*

SUBJECT: Telshor Blvd./Lohman Ave. Intersection Improvement Project; Project No. 08-09-610 NMDOT Project No. ST-4532(200)01; Control No. G2S7512
Additional Work Change Order #2

DATE: February 25, 2010

FILE NO.: PW 10-120

Please accept this request to authorize a new installation in lieu of an existing bid item for the referenced project.

This request is being submitted to cover the installation of a new roadway cross section on Telshor Blvd adjacent to the old American RV & Marine property. The roadway does not allow storm runoff flowing from the east side across Telshor Blvd. to reach an existing drainage rundown on the west side. The current roadway condition causes water to pond thereby causing deterioration of the existing roadway. More importantly it creates an unsafe driving environment for the traveling public. Although our current scope of work calls for a milling and inlay of asphalt over this limit it will not correct the ponding of water on the east side of Telshor Blvd.

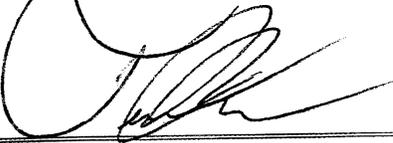
The proposed change to the Telshor Blvd/Lohman Ave Intersection Improvement project requested herein will improve drainage and driving conditions along the roadway. The reconstruction of this section will increase the life span of the roadway while eliminating a hazardous driving condition for the public. The installation will also allow for minimal interruption of traffic flow to a one time application, at one of the city's busiest thoroughfares, with the new construction.

Therefore, the Public Works Department requests the use of your approved contingency amount to increase the Telshor Blvd/Lohman Ave Intersection Improvement project by \$37,809.04. This brings the total requested CMA to \$65,436.27 including the previously approved \$27,627.23 as shown in the attached in CMA #1. To date the total CMA's requests are within the City Manager's authorization amount of \$274,832.36. Disapproval of Change Order Number Two will reject the proposed cost increase and direct Staff to seek alternative ways of eliminating this hazard and decreasing future maintenance costs while keeping the project within the Council awarded contract amount.

Pending approval, funds will be made available in the following accounts:

Telshor-Lohman Ave Intersection Imp
42806010-854121-70Y02; \$37,809.04

Right now, the contractor has completed approximately seventy-six percent of the original scope of work and is on schedule. Therefore, your expeditious response would be greatly appreciated and would facilitate the timely completion of this project. Please advise if additional information is needed. Thank you for your consideration in this matter.



Approved
Terrence Moore, City Manager

3/3/10
Date

ATTACHMENT #2

CONTRACT TIME/LIQUIDATED DAMAGES CALCULATIONS			
CONTRACT START DATE:	July 13, 2009	ORIGINAL CONTRACT TIME:	196
ORIGINAL CONTRACT END DATE:	March 30, 2010	TIME REDUCTION DUE TO DELTION OF WORK:	0
MODIFIED CONTRACT END DATE:	March 30, 2010	MODIFIED CONTRACT TIME:	196
SUBSTANTIAL COMPLETION	April 27, 2010	DAYS OVER CONTRACT TIME (Mar 30th to Apr 27th):	20
PUNCH LIST START/STOP DATES:		DAYS REQUIRED TO COMPLETE THE PUNCHLIST:	TBD
LIQUIDATED DAMAGES/DAY:	\$1,500.00	TOTAL DAYS OVER THE ORIGINAL CONTRACT:	20
POSSIBLE TOTAL LIQUIDATED DAMAGES ASSESSED TO THE CONTRACTOR:	\$ (34,500.00)	MINIMUM DAYS OWED CONTRACTOR DUE TO DELAYS:	43
		DIFFERENCE (Days Over - Days Due) =	-23

Work Description	Days
ROADWAY	
Drive pads at Burger King, Village Inn and Wells Fargo Bank, contractor installed per plan had to re-work due to vehicle bottoming out.	6
Foothills Drive work to mill/inlay/stripe, added to reconfigure striping layout.	4
Additional Work on Telshor Blvd (CMA #2), asphalt removal, regrade, new asphalt to transfer storm runoff adjacent to American RV	5
Plan clarification on subgrade between sta. 32+00 to 38+80 on Telshor Blvd.	2
City requested the concrete retaining walls at Telshor Blvd/Lohman Ave for color concrete staining.	2
City requested contractor for price and time to address landscaping areas not included in orginal contract	6
Contractor requesting 14 days of delays from asphalt supplier due to supplier's inability to supply asphalt as required.	14
<i>Total Roadway Days</i>	39
WEATHER	
Weather Delay- Rain 1/28/2010	1
Weather Delay- Rain 2/3/2010	1
Weather Delay- Rain 4/22/2010	2
<i>Total Weather Delays</i>	4
MISCELLANEOUS	
<i>Total Miscellaneous Delays</i>	0
DAYS DELETED	
<i>Total Days Deleted</i>	0
TOTAL DAYS ADDED TO THE CONTRACT TIME	
43	