*	Roll Call Number
	21-1795

Agenda	Item	Number
		11

Date December 6, 2021

APPROVING CHANGE ORDER NO. 10 WITH KOESTER CONSTRUCTION COMPANY, INC. FOR ADDITIONAL WORK ON MUNICIPAL SERVICE CENTER – PHASE 2, IN THE AMOUNT OF \$362,668

BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, that the attached Change Order No. 10 between the City of Des Moines and Koester Construction Company, Inc., Paul Koester, President, 3050 SE Enterprise Drive, Suite A, Grimes, Iowa, 50111, for additional work on Municipal Service Center – Phase 2, in the amount of \$362,668, be and is hereby approved, and the City Manager is authorized and directed to execute said change order.

(City Council Communication Number <u>21-519</u> attached)
Activity ID 10-2018-001

Moved by	Latto	to adopt
Moved by		to adopt

FORM APPROVED: s/Kathleen Vanderpool

Kathleen Vanderpool Deputy City Attorney

Funding Source: 2021-2022 CIP, Page 53, Municipal Service Center – Phase 2, BL128, G.O. Bonds, Solid Waste Bonds; Sanitary Sewer Fund, Storm Water Utility Fund

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	V			
BOESEN	V			
GATTO	V			
GRAY	~			
MANDELBAUM	V			
VOSS	~			
WESTERGAARD				
TOTAL	1		4	ì
MOTION CADDIED	//		/ ADD	DOVED

CERTIFICATE

I, P. Kay Cmelik, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

Fray Comelik

City Clerk

ENGINEERING DEPARTMENT CITY OF DES MOINES, IOWA



CHANGE ORDER AGREEMENT NO. 10

Date:

November 2, 2021

INITIATED BY: City

Contractor: Koester Construction Company, Inc.

Project:

Municipal Service Center - Phase 2

Activity ID: 102018001

DESCRIPTION OF CHANGE ORDER AND PURPOSE

Add concrete electrical chase to second floor above locker room CR47, Add 2 3-inch conduit to roof above Radio Shop CR51, Add area B transformer platforms CR53, Add ASI 21 plumbing revisions CR54, Add supply grill at IU-129 CR59, Add revise skylight penetration covers CR60, Add two new door frames CR61, Add deck painting to area A & B CR62, Add overhead door changes per RFI 16 CR63, Deduct fence east side of south parking lot CR64, and Add structural steel to area F hollow core bearing CR65. All in accordance with contract documents. These changes add 30 calendar days to the completion date of the contract, the new completion date is June 30, 2022.

Koester Construction Company, Inc. (Koester) accepts and agrees that this change order is full and complete compensation for Change Request No. 63. Koester further accepts and agrees that this change order is full and complete compensation for Change Request No. 25 in which Koester demanded an additional amount of compensation of \$1,106,953, and which was denied by the City in a letter dated June 23, 2021. In response to the denial of CR 25, Koester then submitted a claim by letter dated June 30, 2021, in the amount of \$1,106,953 alleging additional compensation due for material cost increases on the MSC Phase 2 Project. In response, the City again denied the request based on CR 25 in a letter dated August 11, 2021, and advised Koester that the matter did not qualify as a claim under the contract documents. By letter dated August 27, 2021, Koester requested that the City make its election, pursuant to Section 1070, 1.12 of the City of Des Moines Supplemental Specifications, 2020 Edition, to settle the matter by arbitration or litigation, with the City electing arbitration. Koester and the City subsequently agreed to a stay and tolling of the time limits under Section 1070, 1.12. As it relates to this Change Order, CR 63, CR 25 and the purported claim submitted by Koester on August 27, 2021, are collectively referred to as the "Dispute." In consideration of the City's agreement in this Change Order, Koester withdraws its request to settle the Dispute and forever releases its right for resolution of the Dispute beyond the agreement in this Change Order. Koester agrees that it irrevocably and unconditionally releases, acquits and forever discharges the City of Des Moines from all liabilities, actions, causes of action, claims, demands, damages, costs and expenses of any nature arising from or related to the Dispute.

SETTLEMENT FOR COST OF CHANGED WORK

B. ITEMS FOR WHICH CONTRACT UNIT PRICES ARE NOT ESTABLISHED:

ITEM	DESCRIPTION	UNITS	UNIT PRICE	AMOUNT
1001	CR47 ADD Increase Electrical Chase ASI 18	1.00 LS	\$10,026.00	\$10,026.00
1002	CR51 ADD 2-3 inch conduits to roof above radio	1.00 LS	\$2,247.00	\$2,247.00
1003	CR53 ADD Area B Transformer Platforms	1.00 LS	\$1,084.00	\$1,084.00
1004	CR54 ADD Plumbing Revisions ASI 21	1.00 LS	\$1,852.00	\$1,852.00
1005	CR57 ADD Concrete Bases to Five Powerzone Panels	1.00 LS	\$5,719.00	\$5,719.00
1006	CR59 ADD Supply Grill at IU-129	1.00 LS	\$1,650.00	\$1,650.00

Original Co	ontract Amount			\$44,930,9	79.00
Previous C	hange Orders			\$1,034,8	387.02
Amount of	Change By This Chang	e Order		\$362,6	68.00
New Contra	act Amount Including	This Change Ord	er	\$46,328,5	34.02
Percentage	of Change Orders to O	riginal Contract		72/1	3.11%
- ml	Senly	11/17/2021	DMK Stevr	1/ below 1	1/17/2021
Timothy B.	Brady, P.E.	Date	Steven L. Naber, P.E.		Date
Civil Engine	er II Noesto	11/16/17	Des Mories Cil, France		
Koester Con	struction Company, Inc.	ι ι _{Date}	Scott E. Sanders	1	Date
			City Manager 21-1795 Roll Call No.	P/6	Z/ Date
Distribution:	Original - Project File Copy - Prime Contractor Copy - Contract Compliance	Сору	- Timothy B. Brady, P.E. Civil Engineer II		

FUNDING INFORMATION				
CIP Page	Building – 12	Reviewer	DMK	
Object Code	543060	Adequate	X	
Organization	C034PK99	Transfer \$		
Project	BL128	Object Code		
Activity ID	102018001	Organization		
		Project		

Add changes found during construction as per CR47, CR51, CR53, CR54, CR57, CR59, CR60, CR61, CR62, CR63, CR64, CR65, and increase completion date to June 30, 2022.

Copy - Finance Department

Copy - Inspection