

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

DEPARTMENT: Engineering and Construction Management

AGENDA DATE: July 9, 2013

CONTACT PERSON NAME AND PHONE NUMBER: Irene D. Ramirez, P.E., Interim City Engineer (X4428)

DISTRICT(S) AFFECTED: All

SUBJECT:

That the City Manager be authorized to sign a Reimbursement Agreement and Release between the City of El Paso (the City) and Parkhill, Smith & Cooper, Inc. (PSC) whereby PSC shall reimburse the City for the amount of Change Order #7 to EPIA Taxiway "L" Reconstruction and Radius Geometry to Taxiway "J" & "K" Connectors, Contract No. 2012-248.

BACKGROUND / DISCUSSION:

The reimbursement agreement is between PSC and the City for Change Order #7 for work that was required as a result of a design error by the consultant Parkhill, Smith and Cooper, Inc. (PSC). PSC will be reimbursing 100% of the cost of this change order. A separate item is being presented concurrently for the approval of Change Order #7. The error occurred as a result of omitted information of which the contractor proceeded to construct incorrectly. The work required as a result of the error included removal and replacement of new constructed pavement section of Taxiway "L". The Consultant issued revised plan sheets with the required information meeting FAA Advisory Circular requirements.

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

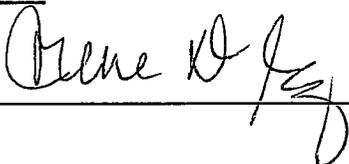
\$373,709.36 Passenger Facility Charge

BOARD / COMMISSION ACTION:

N/A

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

DEPARTMENT HEAD:



RESOLUTION

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

That the City Manager be authorized to sign a Reimbursement Agreement and Release between the City of El Paso (the City) and Parkhill, Smith & Cooper, Inc. (PSC) whereby PSC shall reimburse the City for the amount of Change Order #7 to EPIA Taxiway "L" Reconstruction and Radius Geometry of Taxiway "J" & "K" Connectors, Contract No. 2012-248.

ADOPTED this _____ day of _____, 2013.

THE CITY OF EL PASO

Oscar Leeser
Mayor

ATTEST:

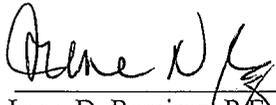
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Cynthia Osborn
Assistant City Attorney

APPROVED AS TO CONTENT:



Irene D. Ramirez, P.E.
Interim City Engineer

City Copy

STATE OF TEXAS §
 §
COUNTY OF EL PASO §

Reimbursement Agreement and Release
for "EPIA Taxiway L Reconstruction
Project" Regarding Change Order #7

The City of El Paso, Texas ("City") and Parkhill, Smith & Cooper, Inc. ("PSC") executed an "Agreement For Professional Services" on or about April 27, 2010 with reference to City as "Owner" and PSC as "Consultant" in connection with "EPIA Taxiway L Reconstruction" (the "Project"). City and PSC acknowledge the existence of grade issues with the Project design grades prepared by PSC which became apparent in December, 2012 during the construction of the Phase 1 improvements (from Taxiway L Station 57+00 through Station 77+78.29 and stub Taxiway V), resulting in a work stoppage issued by Construction Manager ECM International Inc. ("ECM") to the General Contractor CF Jordan Construction, LLC ("CFJ"). Cooperative efforts ensued on the part of representatives of City, PSC, ECM and CFJ to address and remedy design grade issues so as to achieve compliance with Federal Aviation Administration design criteria required for the Project. Remedial plans were ultimately prepared, agreed upon and constructed in connection with the Project resulting in a completed Taxiway for the Phase I improvements (Taxiway L Station 57+00 through Station 77+78.29 and stub Taxiway V) that meets the requirements of the FAA and which has been accepted and placed in service. Contemporaneously herewith, Construction Contract Change Order #7 (a true and correct copy of which is attached hereto and incorporated herein by reference) has been (or will be) submitted to City by CFJ reflecting a total Change Order amount of THREE HUNDRED SEVENTY THREE THOUSAND SEVEN HUNDRED NINE AND 36/100 DOLLARS (\$373,709.36). City and PSC acknowledge that the Change Order amount of \$373,709.36 is a negotiated and agreed upon sum which City has and/ or will agree to pay CFJ for additional work required as a result of

the grade design issues for which PSC is responsible, provided however, that PSC (and/or XL Insurance on behalf of PSC) has and does hereby agree to reimburse City for the Change Order sum paid and/or payable by City to CFJ. Therefore, City and PSC agree as follows:

1. PSC (and/or XL Insurance on behalf of PSC) shall and/or does hereby tender, for the benefit of City, the total sum of \$373,709.36 (the "Payment") to reimburse City for the additional cost incurred by City as reflected by Construction Change Order #7 paid or to be paid by City to CFJ, with such sum to be tendered on or before 14 days following execution of this Agreement and the attached Construction Change Order #7 to City c/o El Paso Airport Manager Monica Lombrana.

2. Subject to the Payment being honored by the bank, **each party agrees that the grade issues have been resolved to the satisfaction of all involved affected parties and each party hereby Mutually Releases and Forever Discharges** the other Party to this agreement and the other Party's respective predecessors, successors, officers, directors, board members, representatives and officials, assigns, heirs, executors, licensed architects, registered professional engineers, consultants, administrators, insurers and legal representatives from all claims asserted or that could have been asserted, whether known or unknown, whether sounding in contract or in tort, including, but not limited to any and all claims and/or causes of action in any way having to do with the design, construction administration services and/or professional design services, as well as any other potential causes of action in any way having to do with the grade issues referenced in this Agreement and addressed by Construction Change Order #7. This Mutual Release includes, as is applicable, shareholders, partners, members, subsidiaries, individuals, affiliates, agents, licensed architects, registered professional engineers, consultants, employees, officers, directors, insurers, heirs, assigns, and legal representatives. This Mutual Release shall likewise be binding on the successors, assigns, consultants and attorneys of City and PSC.

3. Each Party hereto acknowledges that it has read and understood the effect of this Agreement. Each Party states that it executes this Agreement of its own free will and accord, for the purposes and considerations set forth in this Agreement, and that the person executing this Agreement on behalf of each of the Parties has the authority and right to execute same on behalf of such Party and that all conditions precedent with respect to corporate formalities and/or governmental requirements have been satisfied and/or fulfilled. In entering into this Agreement, City and PSC acknowledge and represent that they have sought and obtained the legal advice of an attorney, who is the attorney of their own choice. City and PSC further represent that the terms of this Agreement have been completely read by them, or read to them, and that those terms are fully understood and voluntarily accepted by them.

4. Each Party agrees to pay all of its own attorneys' fees and costs, expert witness fees, and other expenses arising from or relating to Construction Contract Change Order #7.

5. The purpose of this Agreement is to address and conclude all claims relating to the grade issues which became apparent in December, 2012 and which have now been remedied. The parties acknowledge that subsequent phases of the Project are otherwise continuing and ongoing.

This Agreement shall constitute an addendum to the "Agreement For Professional Services" executed on or about April 27, 2010 but supersedes said Agreement only as to potential causes of action in any way having to do with the grade issues referenced in this Agreement and addressed by Construction Change Order #7. Otherwise, all rights, duties, responsibilities and obligations referenced in the "Agreement For Professional Services" shall remain in effect.

6. This Agreement shall be governed by the laws of the State of Texas. This Agreement may be executed in one or more counterparts, each of which shall be an original, and this Agreement is effective upon execution of at least one counterpart by each party to this Agreement. Facsimile and electronically transmitted signatures shall have the same force and effect as original signatures.

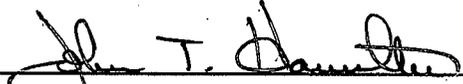
IN WITNESS WHEREOF, an original and copies of this instrument have been executed on the dates shown and in the counties noted below.

WITNESS THE FOLLOWING SIGNATURE AND/OR SEALS:

CITY OF EL PASO:

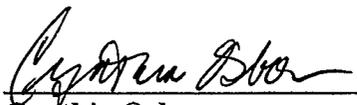
By: Joyce Wilson
Title: City Manager

CONSULTANT:
Parkhill, Smith & Cooper, Inc.



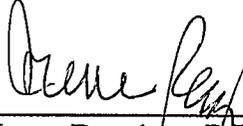
By: John Hamilton
Title: Transportation Sector Director

APPROVED AS TO FORM:



Cynthia Osborn
Assistant City Attorney

APPROVED AS TO CONTENT:



Irene Ramirez, P.E.
Interim City Engineer

ACKNOWLEDGEMENTS

STATE OF TEXAS §
 §
COUNTY OF EL PASO §

This instrument was acknowledged before me on this _____ day of _____, 2013
by Joyce A. Wilson, as City Manager of the City of El Paso, Texas.

Notary Public, State of Texas

My commission expires:

STATE OF TEXAS §
 §
COUNTY OF EL PASO §

This instrument was acknowledged before me on this 18 day of June, 2013
by John Hamilton, P.E., as Transportation Sector Director of Parkhill, Smith & Cooper,
Inc.



Lauren Schreder
Notary Public, State of Texas

My commission expires:

May 29, 2017

CITY OF EL PASO CONSTRUCTION CHANGE ORDER

CONSTRUCTION CHANGE ORDER NO.:

7

DATE:

May 28, 2013

SCOPE CHANGE

PROJECT:

Taxiway "L" Reconstruction & Radius Geometry of Taxiway "J" & "K" Conn

SOLICITATION NO. 2012-248

CONSTRUCTION CHANGE

Original Contract Amount:	\$	<u>14,767,443.00</u>
Net Change by previous Change Orders:	\$	<u>657,295.13</u>
Net Change by previous Construction Quantity Notices:	\$	<u>130,032.00</u>
Amount of this Construction Change Order:	\$	<u>373,709.36</u>
New Amended Contract Amount:	\$	<u>\$15,928,479.49</u>
Change Order Percentage:		<u>7.86%</u>

Contract Time to Substantial Completion	<u>380</u>
Total days added due to Change Orders and CQN's	<u>90</u>
Total days added for this Change Order	<u>22</u>
New Contract Time to Substantial Completion:	<u>492</u>
Current Substantial Completion Due Date	<u>2/5/2014</u>

CONTRACTOR NAME:

CF Jordan Construction LLC

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

Remove (demo) approximately 180 LF of P-501 concrete placed between Sta. 75+20 to Sta. 77+00 (southern most lane 180' x 18.75' x 1.29'). Remove dowel baskets previously installed at Sta. 77+20 to 77+62 and Sta. 56+80 to Sta. 75+00 (along the right side) and Sta. 71+80 to 77+62 (along the left side). Provide layout for revised taxiway grades Sta. 77+78.29 to Sta. 57+00 every 40' on Taxiway "L". Mill existing asphalt between Sta. 77+78.29 to 57+00 to revised grade elevations. Lay approximately 2,000 Tons of P-403 asphalt as needed to raise existing grade to revised grade to provide specified slope for P-501 concrete.

CONSECUTIVE CALENDAR DAYS ADDED TO COMPLETION TIME:

22

TOTAL CHANGE ORDER AMOUNT:

\$ 373,709.36

CONTRACTOR

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

Signature: _____

Date: _____

CITY OF EL PASO (OWNER)

I, Irene D. Ramirez of the City of El Paso hereby authorize and direct the Contractor to proceed with additional work as described in this form.

Signature: _____

Date: _____

Irene D. Ramirez, P.E., Interim City Engineer

CITY OF EL PASO CONSTRUCTION CHANGE ORDER- Pg. 2

CONSTRUCTION CHANGE ORDER NO.: 7 DATE: May 28, 2013

<input type="checkbox"/>	SCOPE CHANGE
<input checked="" type="checkbox"/>	CONSTRUCTION CHANGE

PROJECT: Taxiway "L" Reconstruction & Radius Geometry of Taxiway "J" & "K" Conn SOLICITATION NO. 2012-248

Project Number PAP00550
Class 0
Department 62620029
Fund 41095
Account 508027

Project Number PAP00580
Class 0
Department 41096
Fund 62620029
Account 508027

PURCHASE ORDER # CEP35-1300000107

CONTRACTOR NAME: CF Jordan Construction LLC

PROVIDE REASON/JUSTIFICATION FOR CHANGE ORDER:

During the first phase of construction, discrepancies in the grading were discovered by the contractor. After checking with both the construction manager and the design engineer it became apparent that there were design issues with the edge of pavement as it tied in with the existing shoulder. The original design contained cross slopes between 1.5 - 2 % which exceeds FAA Advisory Circular guidelines. The concrete, P-501, paving operations were halted while a new design was developed by the design engineer to meet FAA standards. A revised grading package will be issued to address these concerns and taxiway "L" will be constructed in accordance with the grading tolerances allowed by the FAA.

CONSECUTIVE CALENDAR DAYS ADDED TO COMPLETION TIME: 22

TOTAL CHANGE ORDER AMOUNT: \$ 373,709.36

Project Manager recommends approval: _____

Engineering Division Manager recommends approval: _____

Financing Department approval: _____
(If Required)

