

**RESOLUTION OF THE CITY OF GLOUCESTER CITY  
COUNTY OF CAMDEN, STATE OF NEW JERSEY**

**#R -2023**

**185**

**RESOLUTION AUTHORIZING CHANGE ORDER NO. 1 REVIEW CHANGE ORDER NO. 1  
FOR THE BARNARD AVENUE PAVING PROJECT, IN THE CITY OF GLOUCESTER CITY.  
COUNTY OF CAMDEN AND STATE OF NEW JERSEY TO THINK PAVERS, IN  
ACCORDANCE WITH THE REQUIREMENTS SET FORTH IN N.J.A.C. 5:30-11.9 ET SEQ.**

**WHEREAS**, a Contract in the amount of in the amount of \$201,777.00 was awarded to Think Pavers by the City of Gloucester City ("City") on August 28, 2023 pursuant to Resolution R-172 for the Barnard Avenue Paving Project ("Project"); and

**WHEREAS**, the modifications to the original Contract are necessary due to a significant change order to protect the health, safety and welfare of City residents which includes an adjustment for additional monolithic gutter, driveway aprons, and sidewalk to be performed for site safety and improvement of the entirety of the roadway; and

**WHEREAS**, the original intent of the project consisted in replacement of damaged monolithic concrete gutter curb but due to resident concerns and for resident safety, the City public safety is best served by requiring replacement of all monolithic concrete gutter curb and aprons under the scope of the Project.

**WHEREAS**, bidding out this additional work would result in major delays by forcing the contractor to delay paving of the roadway and negatively impact resident safety; and

**WHEREAS**, Pennoni Associates, Inc., the City Engineer has certified the need for a modification to the original Contract was necessary, requiring significant additional work in the amount of \$99,014.00, which represents a total percent increase of forty-nine (49%) percent; and

**WHEREAS**, whenever a change order exceeds twenty percent (20%) of the Contract price, the City is obligated by law to follow the technical procedures set forth in N.J.A.C. 5:30-11.9 which provides:

- (a) General provisions regarding the procedures for change orders which exceed the twenty (20%) percent limitation are as follows:

1. The procedures in this section shall only be followed when a particular change order on any type of Contract, except professional and extraordinary unspecifiable service contracts, will cause the total amount of change orders executed for the particular Contract to exceed the originally awarded contract price by more than twenty (20%) percent. The purpose of the procedures is to allow for such a change only in limited instances. Such a change shall not be permitted when the factual circumstances make it reasonably possible to execute a new Contract for the additional work. Such a change may be allowed, for example, when an unforeseen circumstance or differing site condition is combined with a situation which renders execution of a new Contract an unreasonable interference with the efficient completion of the work.
  2. Generally, such change orders are not justifiable and the ready issuance of them by contracting units would constitute an abuse of these rules.
- (b) A written certification justifying the performance of the work or the furnishing of the services which would necessitate issuance of such a change order shall be filed by the contractor with the chief executive officer or designee. This certification shall include an explanation of the factual circumstances which necessitate issuance of the change order; a statement indicating why these circumstances could not have been foreseen; a statement indicating why issuance of the change order would be in the best interests of the contracting unit and would not constitute an abuse of these rules; and, if the nature of the change order is technical, the certification shall include a certified statement from the contractor's appropriate expert, such as an engineer or architect. This statement shall explain in detail the factual circumstances which necessitate issuance of the proposed change order. A rewrite or paraphrase of the rules in this subchapter is not acceptable.
- (c) The governing body approval process for change orders which exceed the 20 percent limitation is as follows:
1. The chief executive officer or his or her designee shall file a request for the change order with the governing body. This request shall include a statement indicating why the proposed change may be allowed under this subchapter. A copy of the certification required under (b) above must also be attached to the request.
  2. If the certification required pursuant to (b) above includes a certified statement from an engineer or other expert as required by (b) above, the request to the governing body shall also include a statement from the contracting unit's engineer or an official or employee with the appropriate expertise. This statement shall explain in detail the factual circumstances which justify issuance of the proposed change order. A rewrite or paraphrase of the rules in this subchapter is not acceptable.
  3. The governing body shall take appropriate steps to assure that the change order is proper and allowable under this subchapter.
  4. The governing body shall then pass a resolution authorizing a written amendatory Contract to be entered into covering the change(s) to be made. The exact form of this amendatory Contract shall be at the discretion of the contracting unit attorney.

5. The resolution described in (c) 4 above shall be passed before execution of the change order.
  6. The governing body shall cause to be printed once, in an official newspaper, a brief notice indicating the additional amount to be expended, the original Contract price, the nature of the original and additional work and why it is necessary to expend the additional funds. A copy of the advertisement shall also be filed with the clerk or secretary of the governing body and be available for inspection by the public.
- (d) The City Clerk or Chief Financial Officer for the City shall report to the Director on an appendix to the contracting unit's annual budget all change orders from the previous fiscal year which exceeded the 20 percent limitation. This report shall be made on a form provided by the Director. A summary of the report shall be included as supplemental material in the annual audit of the contracting unit; and

**WHEREAS**, this change order reflects additional costs associated with additional safety work; and; and

**WHEREAS**, this change order results in a forty-nine (49%) percent increase to the original Contract amount; and

**WHEREAS**, in accordance with the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.), a written certification was provided by the engineer to justify the additional work; and

**WHEREAS**, the City Engineer has reviewed the information submitted by the contractor and has agreed that the itemized breakdown of labor and materials required to complete the Project changes which are justified based on the amount of work required; and

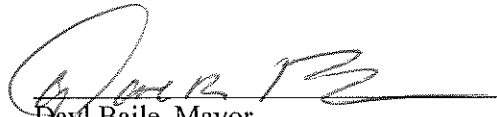
**WHEREAS**, Hugh J. Dougherty, P.E., and Sean M. Raday, P.E., has recommended that the City pass a resolution to approve the change order, execute the change order form, and return the executed change order to Think Paver's office for further processing.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Common Council of the City of Gloucester City, County of Camden, State of New Jersey, as follows:

1. The provisions of the **WHEREAS** clauses set forth above are incorporated herein by reference and made a part hereof.
2. Change Order No. 1 in the amount of \$99,014.00 which amends the original Contract with Think Pavers., for additional safety work associated with the Barnard Avenue Paving Project is hereby approved.
3. The Mayor, Business Administrator or their respective designee, are hereby authorized to

execute any and all documents associated with Change Order No. 1., and carry out any and all other responsibilities associated with this authorization.

4. The City Clerk, by authorization of the Mayor and Common Council, shall cause to be printed once, in an official newspaper, a brief notice indicating the additional amount to be expended, the original Contract price, the nature of the original and additional work and why it is necessary to expend the additional funds. A copy of the advertisement shall also be filed with the City Clerk and be available for inspection by the public.
5. The City Clerk or Chief Financial Officer for the City shall report to the Director of the New Jersey Division of Local Government Services on an appendix to the City's annual budget all change orders from the previous fiscal year which exceeded the 20 percent limitation. This report shall be made on a form provided by the Director. A summary of the report shall be included as supplemental material in the annual audit of the contracting unit; and

  
Dayl Baile, Mayor

**CERTIFICATION**

I hereby certify this is a true and exact copy of a Resolution adopted by the Mayor and Common Council of the City of Gloucester this 18 day of September, 2023.

  
Vanessa L. Little, RMC