



## Legislation Text

---

File #: 20-1626, Version: 1

---

**Dept./ Agency:** Engineering

**Action:** (X) Ratifying (X) Authorizing (X) Amending

**Type of Service:** Change Order/Amend Resolution 7R4-a adopted on October 21, 2015

**Purpose:** Change Order/Amendment #2 to Contract 03-2015PS

**Entity Name:** KS Engineers, P.C.

**Entity Address:** 494 Broad Street, 4th Floor, Newark, New Jersey 07102

**Contract Amount:** Not to exceed \$247,690.95

**Funding Source:** New Jersey Department of Transportation (NJDOT)/Federal Highway Administration Funds (FHWA)

**Contract Period:** July 31, 2020 through May 10, 2021

**Contract Basis:** ( ) Bid ( ) State Vendor ( ) Prof. Ser. ( ) EUS

( ) Fair & Open ( ) No Reportable Contributions ( ) RFP ( ) RFQ

( ) Private Sale ( ) Grant ( ) Sub-recipient ( ) n/a

**Additional Information:**

Original Resolution 7R4-a adopted on October 21, 2015 awarded a contract not to exceed \$157,736.00 for the period of 365 consecutive calendar days from the issuance of a formal Notice to Proceed by the Director Engineering.

Resolution 7R3-a adopted on October 7, 2020 was a Change Order/Amendment #1 to extend the contract period by 283 calendar days with no change to contract amount, for a new substantial completion date of July 31, 2020 and a final completion date of May 10, 2021.

Change Order/Amendment #2 will increase the contract amount by \$89,954.95 for a new total contract amount not to exceed \$247,690.95.

**WHEREAS**, on October 21, 2015, the Municipal Council adopted Resolution 7R4-a, which authorized the Mayor and/or his designee, the Director of the Department of Engineering, to enter into and execute Contract 03-2015PS with KS Engineers, P.C., 494 Broad Street, 4<sup>th</sup> Floor, Newark, New Jersey 07102 ("KSE"), to provide Construction Management and Inspection Services at Broad Street and South Street; Broad Street and Tichenor Street/Lincoln Park Local Safety Program (the "Broad Street Project"), for a contract period of 365 consecutive calendar days from the date of the formal Notice to Proceed, for the total bid amount of One Hundred Fifty-Seven Thousand, Seven Hundred Thirty-Six Dollars and Zero Cents (\$157,736.00); and

**WHEREAS**, on July 31, 2019, the Department of Engineering issued a Notice to Proceed for Contract 03-2015PS to KSE, specifying the contract term to fully complete the Broad Street Project within 365 consecutive calendar days from the date of the formal Notice to Proceed; and

**WHEREAS**, on October 7, 2020, the Municipal Council adopted Resolution 7R3-a to authorize Change Order #1 to Contract 03-2015PS to extend Contract 03-2015PS with KSE for 283 calendar

days with no change to contract amount; and

**WHEREAS**, pursuant to a September 15, 2020 letter from KSE to the Department of Engineering, Division of Traffic and Signals, KSE informed the City that due to the following changed site conditions to the construction contract, the construction contractor, Berto Construction, was unable to start and complete the temperature sensitive work of paving and striping; Berto Construction had to stop working during the winter from December 2019 through March 2020, and due to the following unforeseen circumstances, KSE requires an additional Eighty-Nine Thousand Nine Hundred Fifty-Four Dollars and Ninety-Five Cents (\$89,954.95) to complete the Broad Street Project:

1. An existing 20-inch high-pressure water line interfering with the installation of the new traffic signals along the east side of the Project and requiring a longer arm (35 foot not in the contract) that had to be ordered. The mast arm was delivered on July 19, 2019.
2. Discovery of underground storage tanks at South Street that must be removed as it was located in the area where the signal foundation needs to be installed. The related work and NJDEP process were completed in June 2020.
3. Delay by PSE&G in providing power for the new traffic signals. The meter cabinets were installed on June 28, 2019 in order to allow PSE&G sufficient time to provide cut-in for the traffic signals. The traffic signal installation started on July 24, 2019 and was completed by August 21, 2019. The new traffic signals were not turned on as PSE&G had not provided power for the signals. Despite numerous e-mails and phone calls from the City, due to PSE&G's bureaucratic bungling, errors and misunderstandings, PSE&G failed to provide power to the new meter cabinets until January 14, 2020. This delay pushed the project into the winter.
4. Due to the PSE&G delay, temperature sensitive work of the fire hydrant relocation, milling, paving and striping, work did not start until spring of 2020. The contractor did not work during the winter shutdown from December 2019 through March of 2020. Meantime, Berto Construction could not work efficiently during lockdown due to COVID-19.
5. Additionally, PSE&G installed decorative street lighting on the project and removed the existing lighting. The power to existing lighting was de-energized on June 2, 2020. Once that work was completed, Berto Construction removed the old lighting foundations and completed the sidewalk and brick pavers at the location of the foundations by June 12, 2020.

**WHEREAS**, the Director of the Department of Engineering desires to amend the Contract 03-2015PS and enter into a change order agreement with KSE for additional Eighty-Nine Thousand Nine Hundred Fifty-Four Dollars and Ninety-Five Cents (\$89,954.95) to allow KSE to complete the above-referenced additional unforeseen work for the Broad Street Project; and

**WHEREAS**, on September 24, 2020, the City requested, from NJDOT, to transfer Fifty Thousand Dollars and Zero Cents (\$50,000.00) remaining in the construction funding to construction inspection funding. This request was made so the City could pay KSE for a portion of the above-referenced additional unforeseen work for the Broad Street Project; and

**WHEREAS**, on October 29, 2020, NJDOT informed the City that on October 22, 2020 the Federal Highway Administration approved the request to transfer Fifty Thousand Dollars and Zero Cents (\$50,000.00) of construction funding to construction inspection funding without requiring the City to enter into any additional agreement; and

**WHEREAS**, the City of Newark shall be responsible for the remaining \$39,954.95 of the \$89,064.95 requested by KS Engineers.

**NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:**

1. The Mayor and/or his designee, the Director of the Department of Engineering, are hereby ratified and authorized on behalf of the City of Newark to enter into and execute any documents with the New Jersey Department of Transportation to effectuate the Federal Highway Administration approved request to transfer \$50,000.00 of construction funding to construction inspection funding.
2. The Mayor and/or his designee, the Director of the Department of Engineering, are hereby ratified and authorized on behalf of the City of Newark to enter into and execute a Change Order/Amendment #2 to Contract 03-2015PS with KS Engineers, P.C., 494 Broad Street, 4<sup>th</sup> Floor, Newark, New Jersey 07102 to amend Contract 03-2015PS for an additional \$89,954.95 for an amended total of \$247,690.95 to allow KS Engineers, P.C. to complete the Broad Street Project.
3. Attached hereto is a Certification of Funds from the Director of Finance of the City of Newark which states, (1) that there are available sufficient legally appropriated funds in the amount of Three Million Five Hundred Sixty Five Thousand Twenty Nine Dollars and Sixty Five Cents (\$3,565,029.65), and (2) that the line appropriation of the official budget which shall be charged is as follows:

Business Unit	Dept.	Div./Proj.	Account#	Budget Yr.	Amount
<b>NW011</b>	<b>110</b>	<b>1107</b>	<b>71280</b>	<b>B2020</b>	\$40,000.00
<b>NW051</b>	<b>G17</b>	<b>E17U0</b>	<b>71280</b>	<b>B2017</b>	\$50,000.00

4. All other terms and conditions of Contract 03-2015PS, Broad Street at South Street, Tichenor Street and Lincoln Park Pedestrian Safety Project at Broad Street, Newark, New Jersey, 07102, shall remain the same and are in effect until the contract is completed.
5. This contract is ratified from July 31, 2020 until the date of adoption of this authorizing resolution by the Municipal Council.
6. No further amendments or modifications to this amended contract shall be permitted without prior Municipal Council approval.
7. A fully executed copy of Change Order #1/Amendment to Contract 03-2015PS Broad Street at South Street, Tichenor Street and Lincoln Park Pedestrian Safety Project at Broad Street, Newark, New Jersey, 07102, shall be filed in the Office of the City Clerk by the Director of the

Department of Engineering.

8. Additional municipal funds in the amount of \$39,954.95 are necessary for this Change Order #2/Amendment to Contract 03-2015PS with KS Engineers, P.C., 494 Broad Street, 4<sup>th</sup> Floor, Newark, New Jersey 07102.

### **STATEMENT**

This Resolution ratifies and authorizes the Mayor and/or his designee, the Director of the Department of Engineering, on behalf of the City of Newark, to enter into and execute Change Order/Amendment No. 2 to Contract 03-2015PS with KS Engineers, P.C., 494 Broad Street, 4th Floor, Newark, New Jersey 07102 to amend Contract 03-2015PS for an additional \$89,954.95 for an amended total of \$247,690.95 to allow KS Engineers, P.C. to complete the Broad Street Project. This resolution further ratifies and authorizes the Mayor and/or his designee, the Director of the Department of Engineering, to enter into and execute any documents with the New Jersey Department of Transportation to effectuate the Federal Highway Administration approved request to transfer \$50,000.00 of construction funding to construction inspection funding.