



City of Las Cruces®

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Council Action and Executive Summary

Item # 5 Ordinance/Resolution# 11-222

For Meeting of May 16, 2011
(Adoption Date)

TITLE: A RESOLUTION AUTHORIZING CHANGE ORDER NUMBER ONE FOR THE DEL REY BOULEVARD/SANDHILL ARROYO CROSSING PROJECT, CITY OF LAS CRUCES PROJECT NO. 09-10-429, NEW MEXICO DEPARTMENT OF TRANSPORTATION PROJECT NO. ECO-5557(1) CN: ES11230 TO INCREASE THE CONTRACT TIME BY THIRTY-ONE (31) WORKING DAYS.

PURPOSE(S) OF ACTION:

To add an additional thirty-one (31) working days to the Del Rey Blvd./Sandhill Arroyo Crossing Project.

COUNCIL DISTRICT: 5		
Drafter/Staff Contact: James Moore <i>JM</i>	Department/Section: Public Works/Contracts <i>WMO</i>	Phone: 528-3123
City Manager Signature:		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

On January 19, 2010, the City Council awarded the Del Rey Blvd./Sandhill Arroyo Crossing Project to Burn Construction Company in the amount of \$2,080,859.30 plus \$154,763.91 for New Mexico Gross Receipts Tax. The City Manager is authorized to approve change orders in an amount not to exceed \$116,702.18 for a total project authorization in the amount of \$2,352,325.39.

As outlined in Resolution 93-211 Contract Limitations and Change Orders, staff is allowed to add contract time up to an amount of ten percent of the original contract time. For this one hundred and eighty (180) working day project, staff is authorized to add up to eighteen (18) days. To date Burn Construction has requested a total of thirty-one (31) working days. The thirty-one (31) days can be broken into the following categories:

1. Work Added to the Project – Twelve (12) Working Days: This is additional work that had to be added to the contract and includes modifications to the detour, problems with adjusting existing sewer manholes, the import of suitable backfill material, the installation of concrete barriers for motorist's safety, unanticipated additional work on the driveway at the Discovery Child Development Center at 3300 Del Rey Blvd., and the completion of the median that was originally part of the previous Del Rey Project.

(Continue on additional sheets as required)

2. Weather Delays – Three (3) Working Days: Heavy rain on July 24, 2010, cold temperatures experienced on November 29, 2010, and extremely high winds with blowing dust on December 30, 2010 caused the project to be delayed by a total of three (3) weather days.

3. Private Utility Conflicts – Thirteen (13) Working Days: During the design phase of this project, Comcast reviewed the plans and stated that there would be no conflicts between their infrastructure and the project improvements. However, while installing reinforced concrete pipe in late September 2010, Burn Construction determined that Comcast's underground infrastructure would, in fact, be in conflict with the new storm drainage system. Because there was insufficient slack to lower the cable, Comcast's entire communication line on the east side of Del Rey Blvd. had to be reinstalled from Settler Pass to Settlers Bend. It took Comcast a total of thirteen (13) working days from scheduling to actual completion. During this time, Burn Construction had to suspend work on the northern storm drain as well as all work associated with the installation of the eastern curb. Because this was an unforeseen delay to Burn Construction, staff has agreed to add thirteen (13) working days to the contract.

4. City Operational Delays – Three (3) Working Days: Inspection staff was not available on September 22, 2010 due to mandatory safety training. Therefore the contractor had to reschedule a concrete pour for the next day. Also, Burn Construction scheduled a water outage with City staff on March 16, 2010. However, shutting down the existing water system was more complicated than the City originally anticipated. Therefore, the outage had to be rescheduled for March 24, 2010. Burn Construction claimed that it affected their overall schedule by only two (2) days.

The total amount of time Burn Construction has requested is thirty-one (31) working days. If approved, the original November 28, 2010 project end date will be modified to January 17, 2011. This approval will also reinstate staff's original ten percent (10%) contract time authorization as outlined in Resolution 93-211.

If this change order is not approved, then liquidated damages in the amount of \$500.00 per day will be assessed on the entire thirty-one (31) days. This would yield a \$15,500.00 penalty to Burn Construction. It may also subject the City to a claim from Burn Construction for penalties assessed on time due for services rendered.

This penalty could also affect the amount of reimbursement the City receives as part of the American Recovery and Reinvestment Act (ARRA) of 2009 Cooperative Agreement from the New Mexico Department of Transportation (NMDOT). Per the agreement, the City will make progress payments to Burn Construction and request reimbursement from the NMDOT on a monthly basis. The City may receive reimbursements in an amount not to exceed \$2,000,000.00. Any deductions in the contractor's monthly invoices will be reflected in the reimbursement request.

Staff has reviewed the time requests and found them to be in accordance with the City's General Conditions for Construction Contracts and Resolution 93-211 Contract Limitations and Change Orders. Therefore staff recommends that the Del Rey Blvd./Sandhill Arroyo Crossing Project contract time be increased by thirty-one (31) working days.

(Continue on additional sheets as required)

SUPPORT INFORMATION:

1. Resolution.
2. Exhibit "A", Change Order Number One.

SOURCE OF FUNDING:

Is this action already budgeted? N/A		
	Yes	<input type="checkbox"/> See fund summary below
	No	<input type="checkbox"/> If No, then check one below:
	<i>Budget Adjustment Attached</i>	<input type="checkbox"/> Expense reallocated from: _____
		<input type="checkbox"/> Proposed funding is from a new revenue source (i.e. grant; see details below)
	<input type="checkbox"/> Proposed funding is from fund balance in the _____ Fund.	
Does this action create any revenue? N/A		
	Yes	<input type="checkbox"/> Funds will be deposited into this fund: _____ in the amount of \$ _____ for FY _____.
	No	<input type="checkbox"/> There is no new revenue generated by this action.

BUDGET NARRATIVE

N/A

FUND EXPENDITURE SUMMARY:

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
N/A	N/A	N/A	N/A	N/A	N/A

OPTIONS / ALTERNATIVES:

1. Vote "Yes" on the Resolution and approve Change Order Number One adding thirty-one (31) working days to the Del Rey Blvd./Sandhill Arroyo Crossing Project, City of Las Cruces Project No. 09-10-429, New Mexico Department of Transportation Project No. ECO-5557(1) CN: ES11230.
2. Vote "No" on the Resolution and reject the proposed Change Order. Disapproval of Change Order Number One will reject the addition of thirty-one (31) working days to the contract and direct staff to assess liquidated damages to Burn Construction in the amount

(Continue on additional sheets as required)

of \$500.00 per day for a total of \$15,500.00. This may subject the City to a claim from Burn Construction for time warranted on work performed.

3. Vote to "Amend" the proposed change order. This will modify the proposed change order by instructing staff to pursue an alternative course of action.
4. Vote to "Table" the proposed change order. This will postpone consideration of the proposed contract time increase until the final change order is presented in June 2011.

REFERENCE INFORMATION:

The resolution(s) and/or ordinance(s) listed below are only for reference and are not included as attachments or exhibits.

1. Resolution No. 93-211
2. Resolution No. 09-280
3. Resolution No. 09-10-429

RESOLUTION NO. 11-222

A RESOLUTION AUTHORIZING CHANGE ORDER NUMBER ONE FOR THE DEL REY BOULEVARD/SANDHILL ARROYO CROSSING PROJECT, CITY OF LAS CRUCES PROJECT NO. 09-10-429, NEW MEXICO DEPARTMENT OF TRANSPORTATION PROJECT NO. ECO-5557(1) CN: ES11230 TO INCREASE THE CONTRACT TIME BY THIRTY-ONE (31) WORKING DAYS.

The City Council of Las Cruces is informed that:

WHEREAS, on January 19, 2010, the City of Las Cruces, City Council awarded the Del Rey Blvd./Sandhill Arroyo Crossing Project to Burn Construction Company in the amount of \$2,080,859.30 plus \$154,763.91 for New Mexico Gross Receipts Tax. The City Manager is authorized to approve change orders in an amount not to exceed \$116,702.18 for a total project authorization in the amount of \$2,352,325.39; and

WHEREAS, this change order is being presented to address Burn Construction Company's contract time extension requests per Resolution 93-211, Contract Limitations on Change Orders; and

WHEREAS, twelve (12) working days are being requested for additional work that was added to the contract. This work ranges from importing suitable backfill material and addressing problems encountered in the field to modifying the plans for increased safety and functionality; and

WHEREAS, three (3) working days are being requested for weather delays ranging from cold temperatures, heavy rainfall and high winds; and

WHEREAS, thirteen (13) working days are being requested for delays experienced when a private utility company unexpectedly had to lower their infrastructure from Settlers Pass to Settlers Bend in order to avoid conflicts with the project's new storm drainage system; and

WHEREAS, three (3) working days are being requested for operational delays by the City of Las Cruces. These delays include the rescheduling of a water outage and inspection staff not being available due to mandatory safety training; and

WHEREAS, Public Works Staff has recommended that thirty-one (31) working days be added to the contract.

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

(I)

THAT Change Order Number One in the amount of thirty-one (31) working days is hereby authorized and approved.

(II)

THAT the City Manager is hereby authorized to approve Change Order Number One.

(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 _____, 2011

APPROVED:

Mayor

ATTEST:

City Clerk

(SEAL)

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:

City Attorney

VOTE:

Mayor Miyagishima _____

Councillor Silva: _____

Councillor Connor: _____

Councillor Pedroza: _____

Councillor Small: _____

Councillor Sorg: _____

Councillor Thomas: _____

Change Order Number One

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

I. PROJECT NAME: Del Rey Boulevard/Sandhill Arroyo Crossing , Project No. 09-10-429, New Mexico Department of Transportation No. ECO-5557(1), CN: ES11230

II. PROJECT SUMMARY:

Award Amount:	<u>\$2,080,859.30</u>
Change Order #1:	<u>\$0.00</u>
Revised Project Cost:	<u>\$2,080,859.30</u>
Total Cost Increase:	<u>0.0%</u>

Original Contract Time:	<u>180 Working Days</u>
Change Order #1 Time:	<u>31 Working Days</u>
Revised Contract Time:	<u>211 Working Days</u>
Time Increase:	<u>17.22%</u>

III. DESCRIPTION OF CHANGE:

Change Order #1 is being presented to address Burn Construction Company's current requests for additional contract time. Staff is authorized to approve time increases up to ten percent (10%) of the original contract time per Resolution 93-211 Contract Limitations on Change Orders. If Change Order Number One is approved, the new project end date will be January 17, 2011.

IV. REASON FOR CHANGE:

1. Staff directed Burn Construction to modify the alignment of the arroyo detour to provide a better path of travel for motorists. The contractor requested one (1) additional day to enact the changes.
2. Burn Construction requested that two (2) additional working days be added because a scheduled water outage on March 16, 2010 had to be pushed to March 24, 2010. Because the outage was more difficult than the Utility Department had anticipated, the City did have to reschedule the work. Staff has agreed to add two (2) working days for this delay.

3. As part of the project, the contractor was tasked with raising several existing sewer manholes to the new roadway grade. Typically manholes can be un-stacked with little trouble. However, the barrel sections on these manholes were unreasonably difficult to take apart. In fact, several of the barrel sections had to be destructively removed. Burn Construction requested that one (1) day be added to the contract to compensate them for the additional time it took to remove the existing barrels. Staff has agreed to add one (1) working day for this extra work.

4. Per the original plans, the detour road was to be constructed out of recycled asphalt millings. However, concerns over the ability of the millings to withstand the high traffic volume and the flooding in the arroyo prompted staff to replace the top one and a half inches of the millings with hot mix asphalt. The contractor requested one (1) additional day to undertake this paving work. Staff has agreed to this proposal and added one (1) working day to the contract.

5. As per standard City procedure, staff coordinates the design of a project with the private utility companies that it may affect. Prior to this project being bid, the plans were reviewed by El Paso Electric, Qwest, and Comcast. Each company, after reviewing the plans, either delineated where conflicts would occur with their system or stated that there were no conflicts. When this project was bid the prospective bidders were informed of the conflicts and that the contractor was responsible for coordinating their work with the utility companies relocation work. Because the contractor was made aware of the conflicts prior to bid, there was no allowance for additional time due to this relocation work.

El Paso Electric and Qwest both had conflicts that were delineated on the plans. Burn Construction addressed the relocation work in their project schedule and successfully coordinated the work. Per contract, no additional contract time was added for this work.

Comcast stated that there were no conflicts with their infrastructure. However, while installing reinforced concrete pipe in late September 2010, Burn Construction determined that Comcast's underground infrastructure would in fact be in conflict with the new storm drainage system. Because there was insufficient slack to lower the cable, Comcast's entire communication line on the east side of Del Rey Boulevard had to be reinstalled from Settler Pass to Settlers Bend. It took Comcast a total of thirteen (13) working days from scheduling to actual completion. During this time Burn Construction had to suspend work on the northern storm drain as well as all work associated with the installation of the eastern curb. Because this was an unforeseen delay to Burn Construction, staff has agreed to add thirteen (13) working days to the contract.

6. During the weekend of July 24, 2010, 1-1/4" rain fell at the project site. The contractor's crews spent the following day cleaning dirt and debris from the roadway as well as minor repairs to the site. Per the City of Las Cruces General Conditions for Construction Contracts, this can be considered a weather delay thus warranting the addition of time. Therefore, staff recommends the addition of one (1) working day.
7. During construction, it was determined that the fill material that we originally planned on using was not suitable for use as road and storm drain backfill. Burn Construction was directed to haul in 2,702 tons of engineered fill to make up the difference. The time to bring this material to the site was two (2) working days. As this is additional work, staff recommends adding this time to the contract.
8. On November 29, 2010, Burn Construction had planned on applying prime oil to the eastern lanes of Del Rey. Due to weather limitations (temperature & wind speed), Burn was not able to prime the base course which pushed back the asphalt paving by one day. Staff recommends adding one (1) additional day.
9. On September 2, 2010, Burn Construction planned to undertake a concrete pour on the storm drain box culvert. However, all inspection staff associated with this type of work was attending OSHA safety training. Because of this, the contractor had to push the concrete pour to the next day. One (1) working day has been requested for this delay.
10. Due to the proximity of traffic on the arroyo detour to the El Paso Electric poles, it was decided to have the contractor install concrete barriers for safety. Burn Construction requested one (1) additional day to bring the barriers to the site and set them up. Staff recommends adding one (1) working day for this additional work.
11. As part of the project the contractor was to remove the existing concrete encased rip rap rock on the west side of Del Rey in the arroyo. The actual quantity of rock removed was much higher than the anticipated amount. Due to change of conditions, the contractor has requested that one (1) working day be added to the contract. Staff recommends adding one (1) day to the contract.
12. At the northeast corner of Settlers Bend and Del Rey Blvd. is the Discovery Child Development Center (3300 Del Rey Boulevard). Once Settlers Bend was constructed to the new grades, the daycare's western drivepad was 18 inches higher than the parking lot. In order to provide access from the road to the parking

lot, the contractor was directed to go further into the property to construct the driveway transition. An 18" x 6" header curb was installed on each side of the driveway to avoid damaging the businesses landscaping. The contractor has requested two (2) working days for this additional work.

13. During the Del Rey Reconstruction project (Mars to Starburst) it was decided to not install the northern median curb south of the Sandhill Arroyo in order to help facilitate the detouring of traffic on this project. By leaving this curb out, we had a larger area in which to transition traffic into the arroyo detour. This increased both ease of navigability and motorist safety. Once the arroyo detour was no longer needed, the contractor was directed to install the missing median curb and stamped color concrete. This work took three (3) working days to complete. As this is additional work staff recommends adding this time to the contract.

14. On December 30, 2010, very high winds and blowing dust forced the contractor to stop work prior to noon. One (1) working day has been requested due to this weather delay. Staff recommends the addition of one (1) working day.

The total amount of time Burn Construction Company has requested is thirty-one (31) working days. If approved, the original November 28, 2010 project end date will be modified to January 17, 2011. This approval will also reinstate staff's original 10% contract time authorization as outlined in Resolution 93-211.

Staff has reviewed the time requests and found them to be in accordance with the City of Las Cruces General Conditions for Construction Contracts and Resolution 93-211 Contract Limitations and Change Orders. Therefore staff recommends that the Del Rey Boulevard/Sandhill Arroyo Crossing contract time be increased by thirty-one (31) working days.

V. DETAILED COST OF CHANGE:

This project is well within the original contract cost plus contingency. Therefore all costs associated with this change order can be addressed in the final change order to the City Manager.

Accepted for the Contractor:

Firm: Burn Construction Company Inc.

By: Shane Gill

Title: Project Manager / Secretary

Date: 4/14/11

Contracts Administration Section Recommended Approval:

By: Dan Maest

Date: 4-14-11

Title: Contracts Administrator

Project Development Section Recommended Approval:

By: John [Signature]

Date: 4-14-11

Title: Project Development Administrator

Public Works Department Recommended Approval:

By: [Signature]

Date: 4.20.11

Title: Public Works Director

Utility Department Recommended Approval:

By: [Signature]

Date: 4/26/11

Title: Utility Director

City Manager Recommended Approval

By: _____

Date: _____

Interim Assistant City Manager Recommended Approval

By: _____

Date: _____