

City of Las Cruces[®]

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Council Action and Executive Summary

Item # 7Ordinance/Resolution# 12-022For Meeting of _____
(Ordinance First Reading Date)For Meeting of August 1, 2011
(Adoption Date)

TITLE: A RESOLUTION AUTHORIZING CHANGE ORDER NUMBER TWO FOR THE WATERFALLS REGIONAL POND PROJECT, CITY OF LAS CRUCES PROJECT NO. 08-09-445, TO INCREASE THE CONTRACT TIME BY SEVENTY-THREE (73) WORKING DAYS.

PURPOSE(S) OF ACTION:

To add an additional seventy-three (73) working days to the Waterfalls Regional Pond Project.

COUNCIL DISTRICT: 6			
Drafter/Staff Contact: Jonathan Chavez <i>JC</i>	WWS	Department/Section: Public Works/Contracts	Phone: (575) 528-3072
City Manager Signature:		<i>[Signature]</i>	

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

On January 5, 2009, the City of Las Cruces, City Council awarded the Waterfalls Regional Pond Project to Burn Construction Company, Inc., in the amount of \$2,969,864.66 plus \$219,027.52 for New Mexico Gross Receipt Tax. The City Manager is authorized to approve change orders in an amount not to exceed \$148,493.23 for a total project authorization in an amount of \$3,337,385.41.

On June 21, 2010, Change Order Number One was approved in the amount of \$207,388.00 which also included the addition of 55 working days. The addition of Change Order Number One brought the total project authorization amount to \$3,544,773.41 and a contract time of two hundred and forty (240) working days. Change Order Number One was brought forth to address erosion problems at the Chandler Tank Pond and the North Fork Arroyo intersection with Sonoma Ranch Blvd.

For Change Order Number Two, Burn Construction is requesting the addition of seventy-three (73) working days. This time request can be broken into the following categories:

1. Archaeological Survey – Forty-three (43) Working Days: Prior to the start of construction the New Mexico State Land Office (NMSLO) was in the process of conducting an archaeological survey on a portion of the project site. NMSLO estimated that the archaeological survey would take a maximum of three weeks past the proposed start of construction by Burn Construction. The actual field survey was completed on schedule. However, the area was not cleared for

construction until the report generated by the archaeological survey team was approved by the NMSLO on April 2, 2009. The approval process of the archaeological survey report resulted in a delay of forty-three (43) working days.

2. Weather Delays – Ten (10) Working Days: Heavy rain and subsequent field conditions on September 3, 4, 7, 8, 9, 10, 11, 14, 17, and 18, 2009, caused the project to be delayed by a total of ten (10) weather days.

3. Work Added to the Project – Twenty (20) Working Days: Additional work added to the contract included modifications to the headwall design for concrete culverts for the Minehouse Arroyo drainage channel as instructed by the design engineer. This change in plan required that twenty (20) working days be added to the contract.

Due to the reasons mentioned above, Burn Construction has requested seventy-three (73) working days be added to the contract.

If this change order is not approved, then liquidated damages in the amount of \$500.00 per day will be assessed on the entire seventy-three (73) working days. This would yield a \$36,500.00 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.

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 Waterfalls Regional Pond Project contract time be increased by seventy-three (73) working days.

SUPPORT INFORMATION:

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

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 Two adding seventy-three (73) working days to the Waterfalls Regional Pond Project, City of Las Cruces Project No. 08-09-445.
2. Vote "No" on the Resolution and reject the proposed Change Order. Disapproval of Change Order Number Two will reject the addition of seventy-three (73) working days to the contract and direct staff to assess liquidated damages to Burn Construction in the amount of \$500.00 per day for a total of \$36,500.00. 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 and delay final payment to Burn Construction.

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. 08-09-445

RESOLUTION NO. 12-022

A RESOLUTION AUTHORIZING CHANGE ORDER NUMBER TWO FOR THE WATERFALLS REGIONAL POND PROJECT, CITY OF LAS CRUCES PROJECT NO. 08-09-445, TO INCREASE THE CONTRACT TIME BY SEVENTY-THREE (73) WORKING DAYS.

The City Council of Las Cruces is informed that:

WHEREAS, on January 5, 2009, the City of Las Cruces, City Council awarded the Waterfalls Regional Pond Project to Burn Construction Company, Inc. in the amount of \$2,969,864.66 plus \$219,027.52 for New Mexico Gross Receipts Tax. The City Manager is authorized to approve change orders in an amount not to exceed \$148,493.23 for a total project authorization in the amount of \$3,337,385.41; and

WHEREAS, on June 21, 2010 Change Order Number One was approved in the amount of \$207,388.00 which also included the addition of 55 working days to the contract for a total project authorization in the amount of \$3,544,773.41; 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, forty-three (43) working days are being requested for delays experienced due to an archaeological survey conducted by the New Mexico State Land Office; and

WHEREAS, ten (10) working days are being requested for weather delays in September 2009, due to heavy rainfall and subsequent field conditions; and

WHEREAS, twenty (20) working days are being requested for additional work that was added to the contract. This work was required to implement a design change to the headwall for the Minehouse Arroyo channel culverts; and

WHEREAS, it is recommended that seventy-three (73) working days as listed above 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 Two in the amount of seventy-three (73) working days is hereby authorized and approved.

(II)

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

(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)

VOTE:

Mayor Miyagishima

Councillor Silva:

Councillor Connor:

Councillor Pedroza:

Councillor Small:

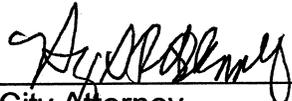
Councillor Sorg:

Councillor Thomas:

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:



City Attorney

Change Order Number Two

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

I. **PROJECT NAME:** Waterfalls Regional Pond; City Project No. 08-09-445

II. **PROJECT SUMMARY:**

Award Amount:	<u>\$2,969,864.66</u>
Change Order #1:	<u>\$207,388.00</u>
Change Order #2:	<u>\$0.00</u>
Revised Project Cost:	<u>\$3,177,252.66</u>
Total Cost Increase:	<u>0%</u>

Original Contract Time:	<u>185 Working Days</u>
Change Order #1 Time:	<u>55 Working Days</u>
Change Order #2 Time:	<u>73 Working Days</u>
Revised Contract Time:	<u>313 Working Days</u>
CO #2 Time Increase:	<u>30.42%</u>

III. **DESCRIPTION OF CHANGE:**

Change Order Number Two is being presented to address Burn Construction Company's current request for additional contract time as staff is only authorized to approve time increases up to ten percent (10%) of the original contract time per Resolution 93-211 Contract Limitations on Change Orders.

IV. **REASON FOR CHANGE:**

1. As a requirement of the project, prior to construction the New Mexico State Land Office (NMSLO) conducted an archaeological survey of the project site. During the survey the remains of an adobe wall/foundation were found. Upon discovery of the remains, the survey team investigated further to ensure any historical artifacts surrounding the site were preserved. This resulted in a portion of the project site being restricted until the survey was complete. NMSLO estimated that the archaeological survey would take a maximum of three (3) weeks past the proposed start of construction which was February 9, 2011. The contractor adjusted their project schedule accordingly to avoid the area restricted due to the survey for the three weeks specified. The actual field survey was completed on schedule. However, the area was not cleared for construction until the report generated by the archaeological survey was approved by NMSLO on April 2, 2009. The approval process of the archaeological survey report resulted in a delay of forty-three (43) working days.

2. Heavy rain fell on the project site on September 3, and September 4, 2009, as well as over the following weekend. The contractor was unable to resume work due to resulting poor field conditions on September 7, 8, 9, 10, 11, 14, 17 and 18, 2009. 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 ten (10) working days.
3. The original construction plan set lacked a sufficient headwall detail for the Minehouse Arroyo Channel culverts. This issue was brought to the attention of the private design firm who produced a revised headwall design. This design required additional work that was not originally part of the construction plans. Due to underruns in other areas of the project, funding for the work was available without requiring the use of contingency funds. This additional work required that twenty (20) working days be added to the contract.

Due to the reasons mentioned above, Burn Construction has requested seventy-three (73) working days be added to the contract.

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 Waterfalls Regional Pond Project contract time be increased by seventy-three (73) 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: *Paul Bustos*

Title: Executive Vice President

Date: 6/21/11

Public Works Department Recommended Approval:

By: *W. Muhl*

Date: 6.14.11

Title: Public Works Director

Contracts Administration Section Recommended Approval:

By: *Dan Maert*

Date: 5-25-11

Title: Contracts Administrator

City Manager Recommended Approval

By: _____

Date: _____

Project Development Section Recommended Approval:

By: *J. Davis*

Date: June 29, 2011

Title: Project Development Administrator

Assistant City Manager Recommended Approval

By: _____

Date: _____