City of Las Cruces®
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Council Action and Executive Summary

Item # 7 **Ordinance/Resolution#** 10-11-427A

For Meeting of _____ (Ordinance First Reading Date)

For Meeting of April 15, 2013 (Adoption Date)

Please check box that applies to this item:

☐ QUASI JUDICIAL ☐ LEGISLATIVE ☒ ADMINISTRATIVE

TITLE: **A RESOLUTION AUTHORIZING CHANGE ORDER NUMBER FOUR TO THE CONTRACT BETWEEN THE CITY OF LAS CRUCES AND WOOTEN CONSTRUCTION, INC., FOR CONSTRUCTION OF THE MUSEUM OF NATURE AND SCIENCE AND TO INCREASE THE CONTRACT SUM FROM $2,783,493.36 TO $2,885,230.06, FOR A NET CHANGE OF $101,736.70.**

PURPOSE(S) OF ACTION:

Authorize a change order to an existing contract.

COUNCIL DISTRICT: ALL		
Drafter/Staff Contact: Tomás Méndez	**Department/Section:** Public Works – Facilities Management (Design & Construction)	**Phone:** 541-2583
City Manager Signature:		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

On January 18, 2011, the City of Las Cruces entered into a contract for Phase I (pre-construction services, asbestos abatement/selective demolition, and renewable energy components) of the construction of the Las Cruces Museum of Nature & Science (MoNaS) with Wooten Construction, Inc., of Las Cruces, N.M. The contract amount for this phase was $821,487.08.

Change Order Number One, in the amount of $1,862,247.92, established a stipulated lump-sum for Phase II of the project, which consisted of the balance of construction (after completion of the aforementioned Phase I pre-construction services). Change Order Number Two, in the amount of $80,590.37, was executed to upgrade energy efficient technologies associated with the project. Change Order Number Three, in the amount of $19,167.99, was executed to further address energy efficiencies and utilities.

Although substantial completion was achieved on November 1, 2012, work continued under the existing contract due to lateness in the delivery of materials or as a result of required coordination with the exhibits design-build contractor. The proposed Change Order Number Four, in the amount of $101,736.70, will address several items of work necessary for the completion of the project, as well as additional items requested by the Museum System staff.

Therefore, this Resolution authorizes an increase in the contract sum from $2,783,493.36 to $2,885,230.06, for a net change of $101,736.70. The Public Works Department, Facilities Management Section, is administering construction services contract in collaboration with the Museums Section of the Community & Cultural Services Department.

SUPPORT INFORMATION:

1. Resolution.
2. Exhibit "A", Purchasing Manager's Request to Contract Form.
3. Attachment "A", Draft change order number four to contract between the City and Wooten Construction, Inc.

SOURCE OF FUNDING:

Is this action already budgeted?			
	Yes	☒	See fund summary below
	No	☐	If No, then check one below:
	Budget Adjustment Attached	☐	Expense reallocated from: _____
		☐	Proposed funding is from a new revenue source (i.e. grant; see details below)
		☐	Proposed funding is from fund balance in the _____ Fund.
Does this action create any revenue?			
	Yes	☐	Funds will be deposited into this fund: _____ in the amount of $_____for FY_____.
	No	☒	There is no new revenue generated by this action.

BUDGET NARRATIVE

City Council authorized the expenditure of $821,487.08 for the construction services related to the Museum of Nature and Science; subsequently increased to $2,783,493.36 with three additional change orders; the attached resolution authorizes an increase of the contract sum to $2,885,230.06. The initial contract award authorization and the change orders to the contract were funded with a HUD loan, a HUD-BEDI grant, an ARRA Stimulus grant, and state appropriations. The following summary itemizes the grant source and its assignment to the contract authorization referring to Change Order Number Four.

FUND EXPENDITURE SUMMARY:

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
BEDI Grant (Building Imp)	40806080-852100-63405	$43,187.52	$43,187.52	$ 0.00	N/A

HUD-BEDI Grant (Furnishings)	20184310-722190-12008	$58,549.18	$71,656.39	$13,107.21	Site Furnishings

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the Resolution, authorizing Change Order Number Four to the contract between the City and Wooten Construction, Inc., to increase the contract sum by $101,736.70 from $2,783,493.36 to $2,885,230.06; an amount that includes gross receipts tax.
2. Vote "No"; this will not approve the Resolution. Therefore, staff will be required to pursue other options to increase the contract amount necessary to add the work to complete the construction and to expend the funds specifically appropriated for this project.
3. Vote to "Amend"; this will direct staff to proceed as amended by City Council. This may delay the project and the expenditure of the grants and loans specifically appropriated for these services.
4. Vote to "Table" the Resolution and provide staff with further direction. This would delay the project and the expenditure of the grants and loans specifically appropriated for these services.

REFERENCE INFORMATION:

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

Resolution 10-11-427
Resolution 12-156

RESOLUTION NO. 10-11-427A

A RESOLUTION AUTHORIZING CHANGE ORDER NUMBER FOUR TO THE CONTRACT BETWEEN THE CITY OF LAS CRUCES AND WOOTEN CONSTRUCTION, INC., FOR CONSTRUCTION OF THE MUSEUM OF NATURE AND SCIENCE AND TO INCREASE THE CONTRACT SUM FROM $2,783,493.36 TO $2,885,230.06, FOR A NET CHANGE OF $101,736.70.

The City Council of the City of Las Cruces is informed that:

WHEREAS, on January 18, 2011, the Las Cruces City Council authorized an agreement between Wooten Construction, Inc., of Las Cruces, N.M. and the City of Las Cruces for construction services for the Museum of Nature and Science; and

WHEREAS, previously authorized change orders one, two, and three increased the contract sum to the current amount of $2,783,493.36; and

WHEREAS, the proposed Change Order Number Four will increase the contract sum from $2,783,493.36 to $2,885,230.06, for a net change of $101,736.70, including New Mexico gross receipts tax; and

WHEREAS, the proposed Change Order Number Four provides additional work, as noted in the accompanying change order, that is required for the completion of the construction; and

WHEREAS, Staff and the project architect have reviewed the contractor's cost proposals and the associated work; and find that the cost is acceptable and consistent with the type and complexity of the work.

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

(I)

THAT Change Order Number Four to the contract between the City and Wooten Construction, Inc., increasing the contract amount by $101,736.70, is authorized for a

total contract authorization of $2,885,230.06; an amount that includes New Mexico gross receipts tax.

(II)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE and APPROVED this _____ day of _____, 2013.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

(SEAL)

VOTE:
Mayor Miyagishima: _____
Councillor Silva: _____
Councillor Smith: _____
Councillor Pedroza: _____
Councillor Small: _____
Councillor Sorg: _____
Councillor Thomas: _____

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:

_____
City Attorney

CITY OF LAS CRUCES

PURCHASING MANAGER'S REQUEST FOR CHANGE ORDER

For Meeting of: April 15, 2013

Resolution No.: 10-11-427A

Change Order to Existing Contract For Construction of the Museum of Nature and Science

The Las Cruces City Council is provided the following information concerning this request:

BID/RFP SOLICITATION INFORMATION:

1. Original Bid/RFP & Due Date: **RFP 10-11-427/ November 24, 2010**
2. Description of Bid/RFP: **Construction of the Museum of Nature and Science**
3. Contract Award: **Resolution No. 10-11-427 / January 18, 2011**
4. Contract Revision:
   Previous Contract Award Amount: **$2,783,493.36**
   Change Order Amount: **$101,736.70**
   New Contract Amount: **$2,885,230.06**
5. Contractor: **Wooten Construction Inc. of Las Cruces, NM**
6. Using Department: **Public Works/Facilities Management**
7. Contract Duration: **Until completion**

PROCUREMENT CODE COMPLIANCE:

The City of Las Cruces Procurement Code was administered in the conduct of this procurement and approval to change the above contract is hereby requested pursuant to **Section 24-228.**

Purchasing Manager — Date: 3/28/13

CONFIRMATION OF FUND ENCUMBRANCE:

REQUISITION OR PURCHASE ORDER NUMBER:	**PO 13200638**

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Change Order

PROJECT *(Name and address)*:
City of Las Cruces Museum of Nature and Science
411 North Main Street
Las Cruces, NM 88001

TO CONTRACTOR *(Name and address)*:
Wooten Construction, Inc.
P. O. Box 1839
Las Cruces, NM 88004

CHANGE ORDER NUMBER: 004
DATE: March 15, 2013

ARCHITECT'S PROJECT NUMBER: 10121L
CONTRACT DATE: January 31, 2011
CONTRACT FOR: General Construction

OWNER: ☐
ARCHITECT: ☐
CONTRACTOR: ☐
FIELD: ☐
OTHER: ☐

THE CONTRACT IS CHANGED AS FOLLOWS:
(Include, where applicable, any undisputed amount attributable to previously executed Construction Change Directives)

Add the various items as shown in the attachment to this change order, labeled as CO#4-Att#1;total of all adds:	$88,129.40
Credit allowance in contract amount for reading room electrical service work:	($5,753.95)
Add special exhibit lighting system for trackways:	$19,361.25

The original Contract Sum was	$ 821,487.08
The net change by previously authorized Change Orders	$ 1,962,006.28
The Contract Sum prior to this Change Order was	$ 2,783,493.36
The Contract Sum will be increased by this Change Order in the amount of	$ 101,736.70
The new Contract Sum including this Change Order will be	$ 2,885,230.06

The Contract Time will be increased by Zero (0) days.
The date of Substantial Completion as of the date of this Change Order therefore is unchanged

NOTE: This Change Order does not include changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

ASA Architects	Wooten Construction	City of Las Cruces
ARCHITECT *(Firm name)*	**CONTRACTOR** *(Firm name)*	**OWNER** *(Firm name)*
ADDRESS	**ADDRESS**	**ADDRESS**
BY *(Signature)*	**BY** *(Signature)*	**BY** *(Signature)*
(Typed name)	*(Typed name)*	*(Typed name)*
DATE	**DATE**	**DATE**

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User Notes: (811094097)