

City of Las Cruces®

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 5 Ordinance/Resolution# 11-052 Council District:

For Meeting of September 7, 2010
(Adoption Date)

TITLE: A RESOLUTION AUTHORIZING A CONTRACT WITH THE FEDERAL BUREAU OF INVESTIGATION (FBI) TO CONDUCT JOINT ACTIVITIES WITH THE LAS CRUCES POLICE DEPARTMENT (LCPD) GANG UNIT, APPROVE THE MODEL SAFE STREETS TASK FORCE MEMORANDUM OF UNDERSTANDING (MOU) AND SEPARATE COST REIMBURSEMENT AGREEMENT TO REIMBURSE OVERTIME EXPENSES PROJECTED AT \$102,765 FOR OFFICER ACTIVITIES, RATIFY THE CITY MANAGER'S APPROVAL OF THE CONTRACT AND COST REIMBURSEMENT AGREEMENT AND ADJUST THE FY 2011 BUDGET.

PURPOSE(S) OF ACTION: To accept funding from the FBI, approve the related MOU and Cost Reimbursement Agreement, ratify the City Manager's approval of the MOU and adjust the budget.

Drafter and Staff Contact: Maria J. Nape		Department: Finance/GAO		Phone: 541-2104	
Department	Signature	Phone	Department	Signature	Phone
Police Department		541-2281	Budget		541-2107
GAO		528-4200	Assistant City Manager		541-2271
Legal		541-2128	City Manager		541-2076

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS: The Las Cruces Police Department entered into a contract with the FBI Model Safe Streets Task Force to identify the responsibilities of the task force and to maximize inter-agency cooperation. Further, the FBI and LCPD executed a Cost Reimbursement Agreement in March of 2010, authorizing the FBI to reimburse the LCPD for overtime expenses incurred for law enforcement activities under the Safe Streets Model Task Force MOU. The total projected reimbursement is based on the current maximum rate of \$1,408.60/officer/month utilizing 6 officers for the remainder of the Federal fiscal year ending 9/30/10 (3 months) = \$25,354.80, and the new Federal rate effective 10/1/10 of \$1,433.52/officer/month utilizing 6 officers for the next 9 months of the city's fiscal year = \$77,410.88 for a combined total of \$102,765.

SUPPORT INFORMATION:

1. Resolution
2. Exhibit "A" – Grant Acceptance Package
3. Exhibit "B" - Model Safe Streets Task Force Memorandum of Understanding (MOU)
4. Exhibit "C" – Cost Reimbursement Agreement
5. Exhibit "D" – Budget Adjustment

SOURCE OF FUNDING:

Is this action already budgeted?	Yes	<input type="checkbox"/>	See fund summary below
	No	<input checked="" type="checkbox"/>	If No, then check one below:
	<i>Budget Adjustment Attached</i>	<input type="checkbox"/>	Expense reallocated from:
		<input checked="" 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?	Yes	<input checked="" type="checkbox"/>	Funds will be deposited into this fund: <u>2400 Police Fund</u>
	No	<input type="checkbox"/>	There is no new revenue generated by this action.

FUND SUMMARY:

Fund Name(s) Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
Police Fund - Revenue 24140210-551007-37310	\$102,765	0.00	\$102,765	Fulfill the scope of the grant activities
Police Fund - Expenses 24147400-Various-37310	\$102,765	0.00	\$102,765	Law enforcement overtime expenses

1. Vote "Yes"; this will authorize the contract for law enforcement overtime under the FBI Safe Streets Task Force Contract.
2. Vote "No"; this will prevent the LCPD from receiving reimbursement for overtime expenses for law enforcement activities related to the FBI Safe Streets Task Force.
3. Vote to "Amend"; this could affect the LCPD' ability to receive reimbursement as terms were established and agreed to in the Safe Streets Task Force contract and Cost Reimbursement Agreement.
4. Vote to "Table"; this is not an option, as program already in place since March 2010.

REFERENCE INFORMATION: None.

(Continue on additional sheets as required)

RESOLUTION NO. 11-052

TITLE: A RESOLUTION AUTHORIZING A CONTRACT WITH THE FEDERAL BUREAU OF INVESTIGATION (FBI) TO CONDUCT JOINT ACTIVITIES WITH THE LAS CRUCES POLICE DEPARTMENT (LCPD) GANG UNIT, APPROVE THE MODEL SAFE STREETS TASK FORCE MEMORANDUM OF UNDERSTANDING (MOU) AND SEPARATE COST REIMBURSEMENT AGREEMENT TO REIMBURSE OVERTIME EXPENSES PROJECTED AT \$102,765 FOR OFFICER ACTIVITIES, RATIFY THE CITY MANAGER'S APPROVAL OF THE CONTRACT AND COST REIMBURSEMENT AGREEMENT AND ADJUST THE FY 2011 BUDGET.

The City Council is informed that:

WHEREAS, the Las Cruces Police Department (LCPD) signed an agreement with the FBI agreeing to share jointly the responsibilities of the Model Safe Streets Task Force (Task Force) and to maximize inter-agency cooperation; and

WHEREAS, the LCPD and the FBI executed a cost reimbursement agreement for the FBI to reimburse LCPD for law enforcement overtime hours incurred under the Agreement and related activities for the Task Force; and

WHEREAS, the Assistant City Manager approved the agreement and accompanying Cost Reimbursement Agreement; and

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

(I)

THAT the Las Cruces Police Department Gang Unit is authorized to conduct joint activities with the FBI Model Safe Streets Task Force under the terms of the MOU.

(II)

THAT the funds of the project budget will be used for law enforcement overtime by LCPD in connection with the Task Force.

(III)

THAT the City of Las Cruces FY2011 budget is hereby adjusted as designated in Exhibit D attached hereto as part of this resolution.

(IV)

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

DONE AND APPROVED this 7th day of September, 2010.

(SEAL)

ATTEST:

City Clerk

Moved by: _____

Seconded by: _____

APPROVED:

Mayor

VOTE:

Mayor Miyagishima: _____

Councillor Silva: _____

Councillor Connor: _____

Councillor Pedroza: _____

Councillor Small: _____

Councillor Sorg: _____

Councillor Thomas: _____

APPROVED AS TO FORM:



City Attorney

Grant Acceptance Package

Grant Acceptance Verification and Signature

Opportunity Title: Model Safe Streets

Offering Agency: Federal Bureau of Investigation (FBI)

Opportunity Number: N/A

Amount Awarded: open

Performance Period: open

Requesting Agency/Department: Las Cruces Police Department

GAO – Grant Writer: Maria Nape

SUPPORT INFORMATION:

Reimbursement of overtime salary to be paid by the FBI for activities connected with Model Safe Streets Task Force MOU.

OPTIONS

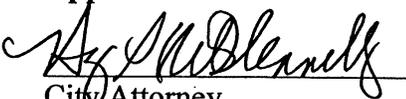
1. Agree with request to accept grant funding. Affirmed by signature below and contract execution. Package to be returned to GAO.
2. Disagree, funding agreement to be returned to funder. Unsigned package to be returned to GAO.

Approved:



 City Manager

Approved as to Form:



 City Attorney

CMP #2.2 Effective 07/06/09: The City Manager may authorize the application for any grant with these exceptions:
 The grant award is anticipated to be in excess of \$50,000 and funding has not been appropriated as part of the current budget.
 The ARRA grant award is anticipated to be in excess of \$500,000 and funding has not been appropriated as part of the current budget.
 The acceptance of the grant will require City Council to adjust the current budget to appropriate matching funds.
 The grant requirements stipulate that the City will continue to operate and fund the project/program after the grant period is complete.
 The grant requirements stipulate that the City enter into a new Memorandum of Understanding or a Joint Powers Agreement with another entity.

MODEL SAFE STREETS TASK FORCE (SSTF) MEMORANDUM OF UNDERSTANDING (MOU)

1) PARTIES

This Memorandum of Understanding (MOU) is entered into by and between the Federal Bureau of Investigation (FBI); and the Las Cruces Police Department Gang Unit.

2) AUTHORITIES

Authority for the FBI to enter into this agreement can be found at 28 U.S.C. § 533; 42 U.S.C. § 3771; and 28 C.F.R. § 0.85 and applicable United States Attorney General guidelines.

3) PURPOSE

The purpose of this MOU is to delineate the responsibilities of Southern New Mexico Safe Streets Gang Task Force (SNMGTF) participants, maximize inter-agency cooperation, and formalize relationships between the participating agencies for policy guidance, planning, training, public and media relations. This MOU is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law or otherwise by any third party against the parties, the United States, or the officers, employees, agents, or other associated personnel thereof.

4) MISSION

The mission of the SNMGTF is to identify and target for prosecution organized crime groups responsible for drug trafficking, money laundering, alien smuggling, crimes of violence (murder), robbery (aggravated assault), violent street gangs, as well as an intensified focus on the apprehension of dangerous fugitives. The SNMGTF will enhance the effectiveness of Federal/State/Local law enforcement resources through a well coordinated initiative seeking the most effective investigative/prosecutive avenues by which to convict and incarcerate dangerous offenders.

5) SUPERVISION AND CONTROL

A. Supervision

Overall supervision of the personnel on the SNMGTF shall be the shared responsibility of the participants.

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FOR OFFICIAL USE ONLY

This document is the property of the FBI and is loaned to your agency.

Neither it nor its contents may be released without authorization by FBI Headquarters.

The Special Agent in Charge (SAC) of the Albuquerque Division shall designate one Supervisory Special Agent (SSA) to have direct and daily responsibility for all personnel and investigative matters pertaining to the SNMGTF.

Responsibility for conduct, not under the direction of the SAC or SSA, of each SNMGTF member, both personally and professionally, shall remain with the respective agency head and each agency shall be responsible for the actions of their respective employees.

Each agency member who is a SNMGTF member will be subject to the personnel rules, regulations, laws, and policies applicable to those of their respective agencies. FBI participants will continue to adhere to the Bureau's ethical standards and will remain subject to the Supplemental Standards of Ethical Conduct for employees of the Department of Justice.

Each SNMGTF member will continue to report to his or her respective agency head for non-investigative administrative matters not detailed in this MOU.

Subject to other provisions in this document, continued membership on the SNMGTF will be based on performance and will be at the discretion of each member's respective supervisor.

B. Case Assignments

The FBI SSA with designated oversight for investigative and personnel matters will be responsible for opening, monitoring, directing, and closing SNMGTF investigations in accordance with existing FBI policy and the applicable United States Attorney General's Guidelines.

Assignments of cases to personnel will be based on, but not limited to, experience, training and performance, in addition to the discretion of the SSA with designated oversight for investigative and personnel matters.

For FBI administrative purposes, SNMGTF cases will be entered into the relevant FBI computer system.

SNMGTF members will have equal responsibility for each case assigned. SNMGTF personnel will be totally responsible for the complete investigation from predication to resolution.

C. Resource Control

Specific control of SNMGTF resources, including personnel, and the continual dedication of SNMGTF resources shall be retained by the participating agency heads, who will be kept fully apprised of all investigative developments by their respective subordinates.

6) OPERATIONS

A. Investigative Exclusivity

It is agreed that matters designated to be handled by the SNMGTF will not knowingly be subject to non-SNMGTF law enforcement efforts by any of the participating agencies. It is incumbent on each agency to make proper internal notification regarding the SNMGTF'S existence and areas of concern.

It is agreed that there is to be no unilateral action taken on the part of the FBI or participating agencies relating to SNMGTF investigations or areas of concern. All law enforcement actions will be coordinated and cooperatively carried out.

B. Informants

The disclosure of FBI informants to non-SNMGTF members will be limited to those situations where it is essential to the effective performance of the SNMGTF. These disclosures will be consistent with applicable FBI guidelines.

Non-FBI SNMGTF members may not make any further disclosure of the identity of an FBI informant, including to other members of the SNMGTF. No documents which identify, tend to identify, or may indirectly identify an FBI informant may be released without prior FBI approval.

In those instances where a participating agency provides an informant, the FBI may, at the discretion of the SAC, become solely responsible for the informant's continued development, operation, and for compliance with necessary administrative procedures regarding operation and payment as set forth by the FBI.

The United States Attorney General's guidelines and FBI policy and procedure for operating FBI informants and cooperating witnesses (CWs) shall apply to all FBI informants and CWs opened and operated in furtherance of SNMGTF investigations. Documentation of, and any payments made to, FBI informants and CWs shall be in accordance with FBI policy and procedure.

Operation, documentation, and payment of solely state, county, or local informants and CWs opened and operated by Non-FBI SNMGTF members in furtherance of SNMGTF investigations must be in accordance with the United States Attorney General's guidelines. Documentation of state, county, or local informants and CWs opened and operated in furtherance of SNMGTF investigations shall be maintained at an agreed to location.

C. Reports and Records

All investigative reporting will be prepared in compliance with existing FBI policy. Subject to pertinent legal and/or policy restrictions, copies of pertinent documents created by each member of the SNMGTF will be made available for inclusion in the respective investigative agencies' files as appropriate.

SNMGTF reports prepared in cases assigned to state, county and local participants will be maintained at a FBI approved location; original documents will be maintained by the FBI.

Records and reports generated in SNMGTF cases which are opened and assigned by the FBI SSA with designated oversight for investigative and personnel matters will be maintained in the FBI investigative file for SNMGTF

SNMGTF investigative records maintained at the Las Cruces Resident Agency of the FBI will be available to all SNMGTF members, as well as their supervisory and command staff subject to pertinent legal, administrative and /or policy restrictions.

All evidence and original tape recordings (audio and video) acquired during the course of the SNMGTF investigations will be maintained by the FBI. The FBI 's rules and policies governing the submission, retrieval and chain of custody will be adhered to SNMGTF personnel.

ALL SNMGTF investigative records will be maintained at an approved FBI location.

COST REIMBURSEMENT AGREEMENT
BETWEEN
THE FEDERAL BUREAU OF INVESTIGATION (FBI)
AND
LAS CRUCES POLICE DEPARTMENT GANG UNIT

TASK FORCE FILE # 281D-AQ-C49017-CE

Pursuant to Congressional appropriations, the FBI receives authority to pay overtime for police officers assigned to the formalized Southern New Mexico Gang Task Force as set forth below for expenses necessary for detection, investigation, and prosecution of crimes against the United States. It is hereby agreed between the FBI and the Las Cruces Police Department Gang Unit located at 217 E. Picacho Avenue, Las Cruces, New Mexico, Taxpayer Identification Number: 856000147, Phone Number: 575-527-6100 that:

- 1) Commencing upon execution of this agreement, the FBI will, subject to availability of the required funding, reimburse the agency for overtime payments made to the officers assigned full-time to the task force.
- 2) Requests for reimbursement will be made on a monthly basis and should be forwarded to the FBI field office as soon as practical after the first of the month which follows the month for which reimbursement is requested. Such requests should be forwarded by the Supervisor of the agency to the FBI Task Force Squad Supervisor and Special Agent in Charge for their review, approval, and processing for payment.
- 3) Overtime reimbursements will be made directly to the agency by the FBI. All overtime reimbursement payments are made by electronic fund transfer (EFT). An ACH Vendor/Miscellaneous Payment Enrollment Form must be on file with the FBI to facilitate EFT.
- 4) Overtime reimbursements will be calculated at the usual rate for which the individual officer's time would be compensated in the absence of this agreement. However, said reimbursement, per officer, shall not exceed monthly and/or annual limits established annually by the FBI. The limits, calculated using Federal pay tables, will be in effect for the Federal fiscal year running from October 1st of one year through September 30th of the following year, unless changed during the period. The FBI reserves the right to change the reimbursement limits, upward or downward, for subsequent periods based on fiscal priorities and appropriations limits. The FBI will notify the agency of the applicable annual limits prior to October 1st of each year.
- 5) The number of agency officers assigned full-time to the task force and entitled to overtime reimbursement by the FBI shall be approved by the FBI in advance of each fiscal year. Based on the needs of the task force, this number may change periodically, upward or downward, as approved in advance by the FBI.
- 6) Prior to submission of any overtime reimbursement requests, the agency must prepare an official document setting forth the identity of each officer assigned full-time to the task force, along with the regular and overtime hourly rates for each officer. Should any officers change during the

year, a similar statement must be prepared regarding the new officers prior to submitting any overtime reimbursement requests for the officers. The document should be sent to the field office for FBI review and approval.

7) Each request for reimbursement will include the name, rank, ID number, overtime compensation rate, number of reimbursable hours claimed, and the dates of those hours for each officer for whom reimbursement is sought. The request must be accompanied by a certification, signed by an appropriate Supervisor of the agency, that the request has been personally reviewed, the information described in this paragraph is accurate, and the personnel for whom reimbursement is claimed were assigned full-time to the task force.

8) Each request for reimbursement will include an invoice number, invoice date, taxpayer identification number (TIN), and the correct banking information to complete the electronic fund transfer. The necessary banking information is the Depositor Account Title, Bank Account Number, Routing Number, and Type of Account (either checking, savings, or lockbox). If the banking information changes, a new ACH Vendor/Miscellaneous Payment Enrollment Form must be submitted to the FBI.

9) Requests for reimbursement must be received by the FBI no later than December 31st of the next fiscal year for which the reimbursement applies. For example, reimbursements for the fiscal year ending September 30, 2009, must be received by the FBI by December 31, 2009. The FBI is not obligated to reimburse any requests received after that time.

10) This agreement is effective upon signature of the parties and will remain in effect for the duration of the agency's participation in the task force, contingent upon approval of necessary funding, and unless terminated in accordance with the provisions herein. This agreement may be modified at any time by written consent of the parties. It may be terminated at any time upon mutual consent of the parties, or unilaterally upon written notice from the terminating party to the other party at least 30 days prior to the termination date.

FOR THE LAS CRUCES POLICE DEPARTMENT:

[Signature]
Date

FOR THE FBI:

Carol K. O. Zou 2-11-10
Special Agent in Charge Date

[Signature] 3/2/201
Contracting Officer Date
FBI Headquarters

OCCO CRA template 5/23/04

Mark T. Ukleja
Contracting Officer
Federal Bureau of Investigation

APPROVED AS TO FORM
[Signature]
City Agency

**CITY OF LAS CRUCES
ADOPTED BUDGET FY 2010/2011**

FUND	DIVISION		FUND TYPE	
Police Fund 2400	Police		Special Revenue	
	FY 2009/10 Projected*	FY 2010/11 Adopted	Adjustment	FY 2010/11 Adjusted
RESOURCES				
Beginning Balance	\$ 0	0		0
REVENUES				
24140050-552006 NM Dept of Public Safety	\$ 3,354	8,000		8,000
24140210-552019 Univ of NM (UNM)	0	0		0
24140210-551007 Federal Bureau of Investigation	0	0	102,765	102,765
Total Revenues	\$ 3,354	8,000	102,765	110,765
Total Resources	\$ 3,354	8,000	102,765	110,765
EXPENDITURES				
Org 24147040				
Personnel	\$ 0	0		0
Operating	457	0		0
Total Org 24147040	\$ 457	0	0	0
Org 24147250				
610210 Overtime	0	0		0
Total Org 24147250	0	0	0	0
Org 24147040-37300				
610210 Overtime	0	8,000		8,000
Operating	2,897	0		0
Total Org 24147040-37300	2,897	8,000	0	8,000
Org 24147400-37310				
Overtime	0	0	102,765	102,765
Total Org 24147400-37310	0	0	102,765	102,765
Total Expenditures	\$ 3,354	8,000	102,765	110,765
ENDING BALANCE	\$ 0	0	0	0

*Projected based on 8 months actual through February 28, 2010 and 4 months projected.