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**City of Las Cruces**<sup>®</sup>  
 PEOPLE HELPING PEOPLE

**Council Action and Executive Summary**

Item # 7 Ordinance/Resolution# 11-069 Council District:     

For Meeting of September 20, 2010

(Adoption Date)

**TITLE:** A RESOLUTION ACCEPTING A GRANT FROM THE NEW MEXICO DEPARTMENT OF TRANSPORTATION, MUNICIPAL ARTERIAL PROGRAM, FISCAL YEAR 2010/2011 IN THE AMOUNT OF \$228,019.00 FOR THE RECONSTRUCTION/REHABILITATION OF SOUTH MAIN STREET FROM ALAMEDA BOULEVARD TO IDAHO AVENUE PROJECT AND TO AMEND THE FISCAL YEAR 2010/2011 BUDGET. A \$76,006.00 CITY MATCH IS REQUIRED.

**PURPOSE(S) OF ACTION:** To accept the Grant from the Municipal Arterial Program for the Reconstruction/Rehabilitation of South Main Street from Alameda Boulevard to Idaho Avenue.

<b>Drafter and Staff Contact:</b> Amber Vaughn <i>av</i>		<b>Department:</b> Public Works		<b>Phone:</b> (575) 528-3228	
<b>Department</b>	<b>Signature</b>	<b>Phone</b>	<b>Department</b>	<b>Signature</b>	<b>Phone</b>
Department Director	<i>[Signature]</i>	541-3333	Budget	<i>[Signature]</i>	541-2107
Grants Administration Office	<i>[Signature]</i>	541-2281	Assistant City Manager	<i>[Signature]</i>	541-2271
Legal	<i>[Signature]</i>	541-2128	City Manager	<i>[Signature]</i>	541-2076

**BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:**

The City of Las Cruces, Public Works Department, submitted an application to the New Mexico Department of Transportation (NMDOT), Municipal Arterial Program, Fiscal Year 2010/2011 for the Reconstruction/Rehabilitation of South Main Street from Alameda Boulevard to Idaho Avenue Project pursuant to 10-222.

The South Main Street from Alameda Boulevard to Idaho Avenue Project was estimated to cost \$1,460,000.00 for project development and construction. The City is required to match 25% of the awarded amount and is responsible to pay 100% of the cost of the project in excess of the awarded amount.

The City of Las Cruces has been offered \$228,019.00 from the New Mexico Department of Transportation, Municipal Arterial Program to complete the project (see letter from NMDOT, dated August 11, 2010). This would require the City to match funds (25%) for the project in the amount of \$76,006.00 for the total project funding amount of \$304,025.00.

The City would also be required to fund the difference in the total project amount of \$304,025.00 and the total construction cost. The funds for the City match and additional construction costs are available in the Street Maintenance fund but have not been budgeted.

(Continue on additional sheets as required)

The application process requires the City to pass a resolution that references the scope of work and monetary amounts submitted to the State Highway Commission for the project and to adopt the project as a priority prior to processing the agreements between the New Mexico Department of Transportation and the City of Las Cruces.

**SUPPORT INFORMATION:**

1. Resolution.
2. Resolution 10-222, Attachment "A".
3. Letter from NMDOT dated August 11,2010, Attachment "B"
4. Vicinity Map, Attachment "C"
5. Municipal Arterial Program Cooperative Agreement Project Number MAP-7613(904)  
Control number HW2 L100005 Exhibit "A"
6. Budget Adjustment, Exhibit "B"

**SOURCE OF FUNDING:**

<b>Is this action already budgeted?</b>	Yes	<input type="checkbox"/>	See fund summary below
	No	<input checked="" type="checkbox"/>	If No, then check 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 checked="" type="checkbox"/>		Proposed funding is from fund balance in the <u>4202</u> Fund.	
<b>Does this action create any revenue?</b>	Yes	<input checked="" type="checkbox"/>	Funds will be deposited into this fund: <u>4212- State Grant</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
GRT Street Maintenance	42806040-854121-70XXX	\$76,006.00	\$0	\$0	Required City Match
State Grant	42806030-854121-70XXX	\$228,019.00	\$0	\$0	Grant Expenses

(Continue on additional sheets as required)

State Grant-Revenue	42220030-552007-70XXX	\$228,019.00	\$0	\$0	Grant Reimbursement
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**OPTIONS / ALTERNATIVES:**

1. Vote "Yes"; this will accept the grant from the New Mexico Department of Transportation Municipal Arterial Program, Fiscal Year 2010/2011 in the amount of \$228,019.00 for the Reconstruction/Rehabilitation of South Main Street from Alameda Blvd. to Idaho Ave. Project. This will commit the City to provide matching funds of \$76,006.00 and to pay for the difference between the total funding amount of the grant and the total cost to construct the project. This will also approve the recommended budget adjustment.
2. Vote "No"; this will reject the grant and abandon the project.
3. Vote to "Amend"; modify the Resolution and provide staff alternate direction on how to proceed with project and/or grant award. This could possibly impact the availability of the funding from the New Mexico Department of Transportation.
4. Vote to "Table"; this could possibly impact the availability of the funding from the New Mexico Department of Transportation.

**REFERENCE INFORMATION**

N/A

**RESOLUTION NO. 11-069**

**A RESOLUTION ACCEPTING A GRANT FROM THE NEW MEXICO DEPARTMENT OF TRANSPORTATION, MUNICIPAL ARTERIAL PROGRAM, FISCAL YEAR 2010/2011 IN THE AMOUNT OF \$228,019.00 FOR THE RECONSTRUCTION/REHABILITATION OF SOUTH MAIN STREET FROM ALAMEDA BOULEVARD TO IDAHO AVENUE PROJECT AND TO AMEND THE FISCAL YEAR 2010/2011 BUDGET. A \$76,006.00 CITY MATCH IS REQUIRED.**

The City Council is informed that:

**WHEREAS**, the New Mexico Department of Transportation (NMDOT) has entered into a joint and coordinated effort in Municipal Arterial Program Cooperative Agreement Project Number MAP-7613 (904), Control Number HW2 L100005 Fiscal Year 2010/2011 for the Reconstruction/Rehabilitation of South Main Street from Alameda Boulevard to Idaho Ave; and

**WHEREAS**, the City of Las Cruces is being offered an award of \$228,016.00 from the New Mexico Department of Transportation, Municipal Arterial Program for this project, and

**WHEREAS**, the New Mexico Department of Transportation's share will be 75% or \$228,016.00 and the City of Las Cruces is required to match 25% of the total project award amount of \$304,025.00, for a match of \$76,006.00, and

**WHEREAS**, the City of Las Cruces is required to fund the difference between the total project award amount of \$304,025.00 and the actual cost of the project, which will incorporate the additional funding necessary for the design, construction costs, materials testing, and inspection for the project, and

**WHEREAS**, the agreement terminates on June 30, 2012 and the City of Las Cruces incorporates all the agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into the written agreement, and

**WHEREAS**, the New Mexico Department of Transportation requires the City to pass a resolution that references the scope of work and the monetary

amounts submitted to the State Highway Commission and that the project is adopted and has priority standing, and

**WHEREAS**, the City of Las Cruces has the remaining necessary funding in place and have commenced with the project design plans.

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

**(I)**

**THAT** the City of Las Cruces will enter into Cooperative Agreement for Project Number MAP-7613 (904), Control Number HW2 L100005 with the New Mexico Department of Transportation, Municipal Arterial Project, Fiscal Year 2010/2011 for the Reconstruction/Rehabilitation of South Main Street from Alameda Boulevard to Idaho Ave.

**(II)**

**THAT** the grant from the New Mexico Department of Transportation, Local Government Road Fund Program, in the amount of \$228,016.00, is hereby accepted and the City of Las Cruces will commit \$76,006.00 in matching funds and all additional construction costs for the project.

**(III)**

**THAT** the Fiscal Year 2010/2011 Budget is hereby amended as outlined on the attached Exhibit "B".

**(IV)**

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

**DONE AND APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

(SEAL)

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
VOTE:

City Clerk

Mayor Miyagishima: \_\_\_\_\_  
Councillor Thomas: \_\_\_\_\_  
Councillor Silva: \_\_\_\_\_  
Councillor Connor: \_\_\_\_\_  
Councillor Pedroza: \_\_\_\_\_  
Councillor Small: \_\_\_\_\_  
Councillor Sorg: \_\_\_\_\_

Moved by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney

**RESOLUTION NO. 10-222****A RESOLUTION AUTHORIZING THE APPLICATION FOR 2010 / 2011 MUNICIPAL ARTERIAL PROGRAM (MAP) FUNDING WITH THE NEW MEXICO DEPARTMENT OF TRANSPORTATION (NMDOT) FOR THE SOUTH MAIN RECONSTRUCTION FROM ALAMEDA BOULEVARD TO IDAHO AVENUE PROJECT.**

The City Council is informed that:

**WHEREAS**, the New Mexico Department of Transportation (NMDOT) makes funding available to municipalities for arterial projects, and

**WHEREAS**, applications for the Municipal Arterial Program (MAP) projects are due to NMDOT no later than March 15, 2010, and

**WHEREAS**, it is anticipated that the City of Las Cruces (City) could receive funding for a given project and recommends that a single project be identified on the application for MAP funds to NMDOT, and

**WHEREAS**, the Public Works Department has identified three projects for City Council that could be considered and prioritized for the MAP funding project, and

**WHEREAS**, NMDOT requires a Resolution of Support from the City Council as part of the application process.

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

(I)

**THAT** the application for the MAP funding with NMDOT for the South Main Street Reconstruction from Alameda Boulevard to Idaho Avenue is hereby authorized.

(II)

**THE** City Manager is authorized to execute MAP Agreements upon acceptance from NMDOT provided sufficient budget is available for the matching funding level.

(III)

THAT City Staff shall place the South Main Street Reconstruction from Alameda Boulevard to Idaho Avenue Project in the FY 2010/2011 Budget.

(IV)

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

DONE AND APPROVED this 1<sup>st</sup> day of March, 2010.

(SEAL)

APPROVED:

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

VOTE:

Mayor Miyagishima:	<u>Aye</u>
Councillor Silva:	<u>Nay</u>
Councillor Connor:	<u>Aye</u>
Councillor Pedroza:	<u>Aye</u>
Councillor Small:	<u>Aye</u>
Councillor Sorg:	<u>Aye</u>
Councillor Thomas:	<u>Aye</u>

Moved by: Small

Seconded by: Connor

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney

**RECEIVED**

AUG 16 2010

CITY OF LAS CRUCES  
PW/PROJECT DEVELOPMENT

*New Mexico* DEPARTMENT OF  
**TRANSPORTATION**  
MOBILITY FOR EVERYONE

August 11, 2010

Louis Grijalva, Project Development Administrator  
City of Las Cruces  
P.O. Box 20000  
Las Cruces, NM 88004-9002

Dear Mr. Grijalva:

Enclosed please find Cooperative Agreement No. MAP-7613 (904), Control No. HW2 L100005, which will expire on June 30, 2012, between the New Mexico Department of Transportation and the City of Las Cruces. The Commission approved scope for this project is: "Reconstruction/rehabilitation of South Main Street from Alameda Blvd to Idaho Ave". Please notify me immediately if this scope is not correct.

Please have the Mayor, Town Clerk and the City Attorney sign and date page 9, make a copy for your files and return all four original agreements - along with any revised estimated cost summary and a copy of the governing body's resolution for this project.

The time frame for which you can begin the project and receive disbursement is contingent upon our office receiving all necessary documentation as soon as possible for further processing. You will be notified when all required signatures have been obtained and the agreement has been executed. A fully executed agreement will be forwarded to you when the project has been processed through the system and received back from Santa Fe.

Thank you for handling at your earliest opportunity and please do not hesitate to contact me at 575-544-6536 or [debraa.hudson@state.nm.us](mailto:debraa.hudson@state.nm.us).

Sincerely,

Debbie Hudson  
Local Government Road Fund Coordinator

Enclosure

Bill Richardson  
Governor

Gary L. J. Girón  
Cabinet Secretary

Commission

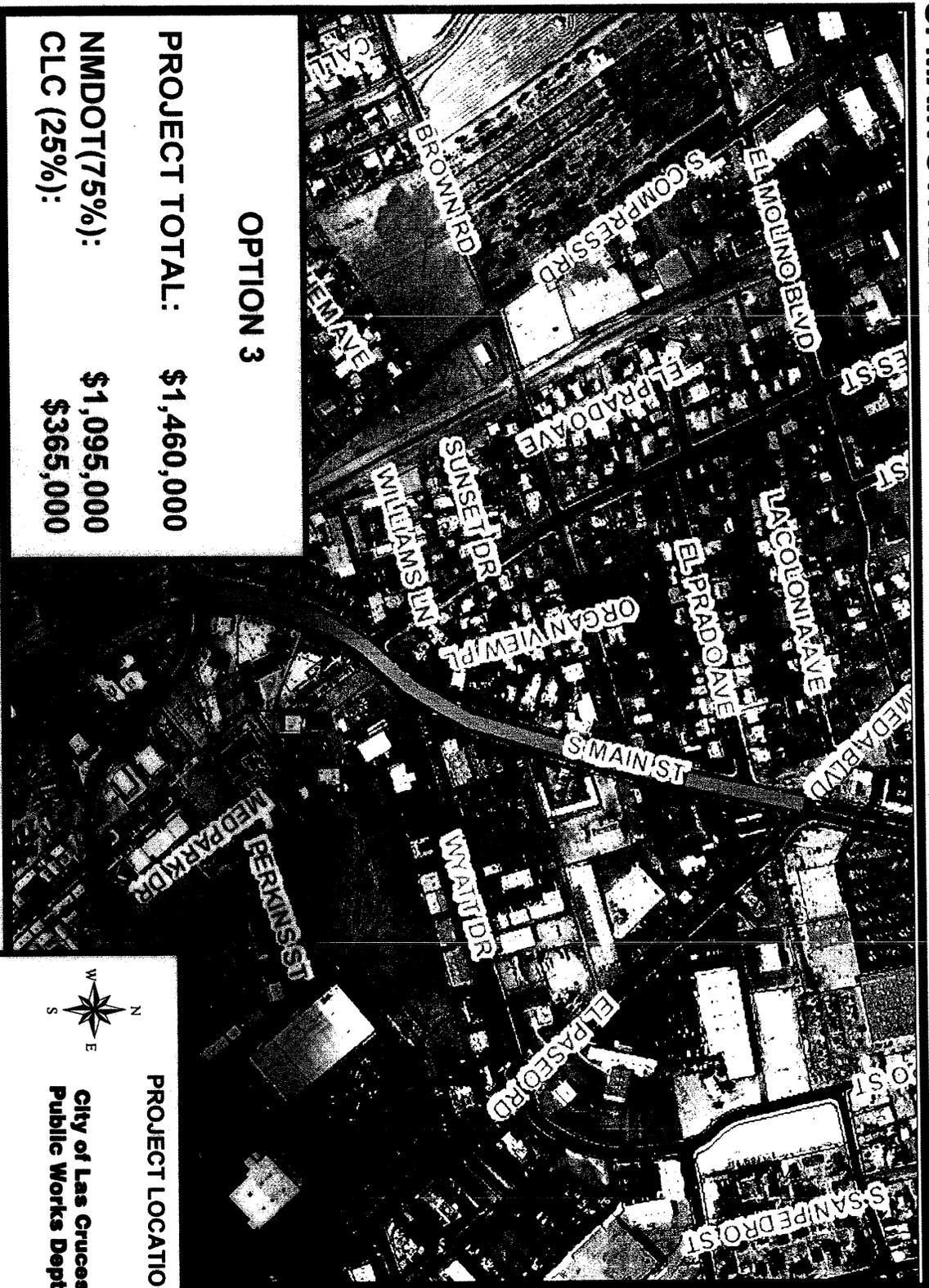
Johnny Cope  
Chairman

John Hummer  
Commissioner  
District I

District One Office  
2912 E. Pine Street  
Deming, NM 88030-7075  
575-544-6530

Frank E. Guzman, P.E.  
District Engineer  
District I

**S. MAIN ST. RECONSTRUCTION FROM ALAMEDA BLVD TO IDAHO AVE**



**OPTION 3**

**PROJECT TOTAL: \$1,460,000**

**NMDOT(75%): \$1,095,000**

**CLC (25%): \$365,000**



**City of Las Cruces  
Public Works Dept.**

**PROJECT LOCATION**

Contract No.	_____
Vendor No.	54342
Project No.	MAP-7613(904)
Control No.	HW2 L100005

### MUNICIPAL ARTERIAL PROGRAM COOPERATIVE AGREEMENT

THIS AGREEMENT made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2010, by and between the NEW MEXICO DEPARTMENT OF TRANSPORTATION, herein referred to as "DEPARTMENT" and the City of Las Cruces herein referred to as "CITY".

In consideration of the covenants contained herein and pursuant to the NMSA 1978, Section 67-3-28, as amended, and Section 67-3-28.2 NMSA, as amended, and Commission Policy No. 44-92, THE PARTIES AGREE AS FOLLOWS:

#### SECTION ONE -- PURPOSE:

The purpose of this Agreement is for the **Reconstruction/Rehabilitation of South Main Street from Alameda Blvd to Idaho Ave**. This project shall hereafter be referred to interchangeably as "Project" or "Project Control No. L100005." The Project is a joint and coordinated effort for which DEPARTMENT and the "CITY" each have authority or jurisdiction. This agreement shall specify and delineate the rights and duties of the parties hereto.

#### SECTION TWO -- PROJECT FUNDING BY PARTIES:

1. The total estimated cost for Project Control No. L100005 is **Three Hundred Four Thousand Twenty Five Dollars (\$304,025.00)** to be funded in proportional share by the parties hereto as follows:
  - a. DEPARTMENT'S 75% share shall be \$ 228,019.00  
 For the **Reconstruction/Rehabilitation of South Main Street from Alameda Blvd to Idaho Ave**
  - b. The CITY'S 25% match share shall be \$ 76,006.00

For the purpose stated above

- c. The Total Estimated Project Cost \$ 304,025.00
2. The CITY shall pay all Project costs that exceeds Three Hundred Four Thousand Twenty Five Dollars (\$304,025.00).

**SECTION THREE -- CITY SHALL:**

1. Act in the capacity of lead agency for the purpose as described in Section One.
2. Pay all costs, perform all labor and supply all material, except as provided in Section Two of this Agreement, for the purpose as described in Section One for the construction work specified in the plans developed for Project Control No. L100005.
3. Adopt a written Resolution of support for the Project, including as assumption of ownership, liability, and maintenance responsibility for the scope, or related amenities and required funding to support the Project.
4. Initiate the preliminary engineering, survey, and all design activities, and coordinate Project construction.
5. Be responsible for performing or directing the performance of all design and pre-construction activity, including, but not limited to, the following:
  - a. Utility relocation;
  - b. Drainage and storm drain design;
  - c. Geotechnical design;
  - d. Pavement design;
  - e. Traffic design;
  - f. Structural design;
  - g. Environmental and archeological clearances;
  - h. Right-of-way maps; and
  - i. Hazardous substance/waste site(s) contamination investigations.
6. Initiate and cause to be prepared the necessary Plans, Specifications, and Estimates (PS&E) for this Project.
7. Cause all designs and PS&E's to be performed under the direct supervision of a

Registered New Mexico Professional Engineer.

8. Design the Project in accordance with **Appendix A**, "Minimum Design Standards", which is hereby incorporated into this Agreement.
9. Adhere to **Appendix B**, "Minimum Survey and Right of Way Acquisition Requirements", which is hereby incorporated into this Agreement.
10. Comply with **Appendix C**, "Construction Phase Duties and Obligations", which is hereby incorporated into this Agreement.
11. Furnish the **DEPARTMENT'S** District One Office written "**Certification of the Pre-Construction Contract Phase**," prior to project construction, and "**Certification of the Construction Phase**," upon project completion, (See Certification No. 1 and No. 2, which are hereby incorporated by reference into this Agreement). The "**CITY**" shall also furnish the **DEPARTMENT** upon completion of project, an "**AS BUILT**" summary of costs and quantities, attached to Certification No. 2 submitted as "**AS BUILT Summary of Costs and Quantities**," which shall reflect the total cost of project as stated in Certification No. 2. The Mayor or his/her designee shall execute both these certifications and this Agreement. Failure of the "**CITY**" to furnish the above certification to the **DEPARTMENT** within thirty (30) days of Project completion shall amount to a material breach of this Agreement and shall entitle the **DEPARTMENT** to cease performance of any obligation set forth in this Agreement at its sole discretion. If Certification No. 1 is not furnished prior to project construction and Certification No. 2 and "**AS BUILT Summary of Costs and Quantities**" are not furnished to the **DEPARTMENT** within thirty (30) days of project completion, the "**CITY**" shall reimburse to the **DEPARTMENT** all funds disbursed in accordance with this Agreement.
12. Obtain all required written agreements or permits relating to any realignment of "**CITY**" roads, when applicable, from all public and private entities.
13. Advertise, let, and supervise the construction of Project Control No. L100005
14. Agree that the funds identified in Section Two should be contractually committed between the "**CITY**" and a contractor by June 30, 2011
15. Maintain all records and documents relative to this Agreement for a minimum of five (5)

- years.
16. Furnish the **DEPARTMENT**, upon demand, all records relevant to this Agreement and to allow the **DEPARTMENT** and State Auditor the right to audit all records, which support the terms of this Agreement.
  17. Maintain all facilities constructed or reconstructed with Project funds.
  18. Allow the **DEPARTMENT** to perform a final inspection of the Project for the purpose of determining if the Project was constructed in accordance with the provisions of this Agreement. Disclosures of any failure to meet such requirements and standards as determined by the **DEPARTMENT**, shall result in termination of this Agreement, for default, including without limitation its costs for funding, labor, equipment, and materials.
  19. The "**CITY**" shall complete project by June 30, 2012. Should this condition not be met, this Agreement shall automatically terminate. Should such termination occur, the **DEPARTMENT** shall claim reimbursement from the "**CITY**" of any unexpended funds disbursed in the performance of this Agreement.

**SECTION FOUR -- BOTH PARTIES AGREE:**

1. Upon termination of this Agreement any remaining property, materials, or equipment belonging to the **DEPARTMENT** shall be accounted for and disposed of by the "**CITY**" as directed by the **DEPARTMENT**.
2. That no money in the Local Government Road Fund shall be used by the **DEPARTMENT** to administer any program, and no entity receiving a distribution pursuant to a program requiring matching funds shall use another distribution made pursuant to Section 67-3-28.2, NMSA 1978 (1995 Supp.), as amended, to meet the match required.
3. That the provisions of the Local Government Road Fund Project Handbook (Current Edition) and any amendments thereto, are incorporated herein by reference and shall control the contractual rights and obligations of the parties unless in conflict with the specific terms expressed in this Agreement or any amendments thereto.

**SECTION FIVE -- PROJECT RESPONSIBILITY:**

The Improvements proposed in Section One of this Agreement shall not be under the jurisdiction and control of the DEPARTMENT.

**SECTION SIX -- "CITY'S" SOLE JURISDICTION:**

By reason of the DEPARTMENT'S participation in the funding of this Project, the DEPARTMENT is not incorporating this Project into the State Highway System, nor is the DEPARTMENT assuming any maintenance or user responsibility or liability for participation in this Project.

**SECTION SEVEN -- PEDESTRIAN, BICYCLE, & EQUESTRIAN FACILITIES:**

In accordance with NMSA 1978, Section 67-3-62, construction of highways along new alignments or for purposes of substantially widening highways along existing alignments shall consider provisions for pedestrian, bicycle, and equestrian facilities concurrent with the design of the Project.

**SECTION EIGHT -- EQUAL OPPORTUNITY COMPLIANCE:**

The "CITY" agrees to abide by all applicable Federal and State Laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, the "CITY" agrees to assure that no person in the United States shall, on the grounds of race, religion, color, national origin, sex, sexual preference, age, or handicap, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under, any program or activity performed under this Agreement. If the "CITY" is found to be not in compliance with these requirements during the life of this Agreement, the "CITY" agrees to take appropriate steps to correct these deficiencies.

**SECTION NINE -- LEGAL COMPLIANCE**

The "CITY" shall comply with all applicable federal, state, local, and Department laws, regulations and policies in the performance of this AGREEMENT, including, but not limited to laws governing civil right, equal opportunity compliance, environmental issue, workplace safety, employer-employee relations and all other laws governing operations of the workplace, including laws and regulations hereafter enacted. The "CITY" shall ensure that the requirements of this compliance are made a part of each subcontract on this Project at all tiers.

**SECTION TEN -- THIRD PARTY BENEFICIARY CLAUSE:**

It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of any part of the Agreement to create in the public, or any member thereof, a third party beneficiary or to authorize anyone not a party to the Agreement to maintain a suit for wrongful death, bodily and/or personal injury to a person, damage to property, and/or any other claim(s) whatsoever pursuant to the provisions of this Agreement.

**SECTION ELEVEN -- NEW MEXICO TORT CLAIMS ACT:**

No Provision of this AGREEMENT establishes any waiver of immunity from liability for alleged tortious conduct of any employee of the DEPARTMENT or of the "CITY" arising from the performance of this AGREEMENT apart from that set forth in the New Mexico Tort Claim Act, NMSA 1978. Section 41-41-1 et seq. (1976).

**SECTION TWELVE -- ACCOUNTABILITY OF RECEIPTS AND DISBURSEMENTS:**

There shall be strict accountability for all receipts and disbursements relating hereto. The "CITY" shall maintain all records and documents relative to the Project for a minimum of five years after completion of the Project. The "CITY" shall furnish the DEPARTMENT and State Auditor, upon demand, any and all such records relevant to this AGREEMENT. If an audit finding determines that specific funding was inappropriate or not related to the Project, the "CITY" shall reimburse that portion to the DEPARTMENT within thirty days of written notification. If documentation is insufficient to support an audit by customarily accepted accounting practices, the expense supported by such insufficient documentation shall be reimbursed to the DEPARTMENT

within thirty days.

**SECTION THIRTEEN -- AUTHORIZATION OF EXPENDITURES:**

The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the Legislature of New Mexico for performance of this Agreement. If sufficient appropriations and authorizations are not made by the Legislature, this Agreement shall terminate upon written notice given by the DEPARTMENT to the "CITY". The DEPARTMENT is expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered, and approved for expenditure by the DEPARTMENT. The DEPARTMENT'S decision as to whether its funds are sufficient for fulfillment of this Agreement shall be final.

**SECTION FOURTEEN -- DISBURSEMENT OF FUNDS:**

Disbursement(s) to the "CITY" shall be made after receipt of a cover letter requesting disbursement of funds, Notice of Award/Work Order, Notice to Proceed, Planned Summary of Costs and Quantities, and verification of available funds. All required documents shall include DEPARTMENT project and control numbers.

**SECTION FIFTEEN -- TERMS OF THIS AGREEMENT:**

This Agreement constitutes the entire AGREEMENT between the parties. Any claimed covenant, term, condition, warranty or promise of performance not expressly included in this document or its amendments, is not part of this AGREEMENT and not enforceable pursuant to this AGREEMENT. Performance of all duties and obligations herein shall conform with and shall not contravene any state, local, or federal statutes, regulations, rules, or ordinances.

**SECTION SIXTEEN -- TERMINATION:**

1. This Agreement terminates on June 30, 2012. Neither party shall have any obligation under this Agreement after said date.

2. The DEPARTMENT has the option to terminate this Agreement if the "CITY" fails to comply with any provisions of this Agreement.

**SECTION SEVENTEEN – SEVERABILITY:**

In the event that any portion of this contract is determined to be void, unconstitutional, or otherwise unenforceable, the remainder of this contract shall remain in full force and effect.

**SECTION EIGHTEEN – AMENDMENT:**

This Agreement shall not be altered, modified, or amended except by an instrument in writing and executed by the parties hereto.

IN WITNESS WHEREOF, the parties have set their hands and seal this day and year set forth below.

**NEW MEXICO DEPARTMENT OF TRANSPORTATION**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Deputy Secretary or Designee

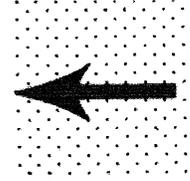
**APPROVED AS TO FORM AND LEGAL SUFFICIENCY BY THE DEPARTMENT'S OFFICE OF GENERAL COUNSEL**

By: Gynetha A. Christ Date: Aug. 6, 2010  
Assistant General Counsel

(Signatures Continue on Next Page)

**"City of Las Cruces"**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Mayor



**SIGN  
& DATE**

**ATTEST:**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
"CITY" Clerk

**APPROVED AS TO FORM BY THE "CITY" ATTORNEY**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
"CITY" Attorney

## APPENDIX A

## Minimum Design Standards

1. The design shall provide for all facilities as required by law (ADA compliance, bicycle paths, etc.).
2. The pavement shall be designed for a 20-year life as a minimum for new construction or reconstruction, or for a 10-year life as a minimum for rehabilitation.
3. The following documents shall be used as a minimum in the design of this project:
  - a. FHWA Manual of Uniform Traffic Control Devices, Current Edition as amended;
  - b. AASHTO A Policy on Geometric Design of Highways and Streets, Current Edition ("Green Book");
  - c. AASHTO Guide for the Development of Bicycle Facilities, Current Edition;
  - d. DEPARTMENT'S Regulations for Driveway and Median Opening on Non-Access Controlled Highways, Current Update;
  - e. DEPARTMENT'S Urban Drainage Design Criteria;
  - f. DEPARTMENT'S Geotechnical Manual, Current Update;
  - g. DEPARTMENT'S Action Plan;
  - h. DEPARTMENT'S Local Government Road Fund Project Handbook; Current Edition;
  - i. DEPARTMENT'S Handbook of Hazardous Waste Management, Current Edition;
  - j. DEPARTMENT'S Location Study Procedures;
  - k. AASHTO Guide to Design of Pavement Structures, Current Edition, and;
  - l. Other design publications as outlined in the DEPARTMENT'S Local Government Road Fund Project Handbook.
  - m. The "CITY" may use "CITY" established local design standards if approved by the District Engineer, for each project.

## APPENDIX B

## Minimum Survey and Right of Way Acquisition Requirements

1. Establish and permanently reference stations and monuments.
2. Determine and record sufficient topography to assure all relevant landmarks are shown.  
Include items such as buildings, sidewalks, driveways, walls, trees, etc.
3. Obtain and plot existing profile grade and cross-sections where necessary. Plot curb profiles as needed.
4. All utilities above and below ground and their owners shall be shown.
5. The surveyor shall verify, ascertain, and certify the right-of-way design plans.
6. All surveying and right-of-way mapping is to be performed in accordance with the DEPARTMENT'S Surveying Requirements, Current Edition, and Minimum Standards for Surveying, NMSA 1978, Sections 61-23-1 to 61023-32 or as amended.
7. All DEPARTMENT Right of Way Handbooks, particularly Right of Way Handbook (Current Edition, Local Public Agencies), shall be adhered to for all R/W operations, including Title Search, Property Survey, Right of Way Mapping, Appraisal, Appraisal Review, Acquisition (including donations), Relocation, and Right of Way Certification. Only qualified personnel may undertake Right of Way functions. "CITY" staff or consultants may not be used to perform any R/W functions unless the "CITY" certifies that each individual is qualified to perform each individual right of way activity, such as Title search, property survey, mapping, appraisal, etc. Right of Way operations shall conform to State statutes and Federal regulations. Future Federal funding for project shall be jeopardized if right of way operations do not conform to State statutes and Federal regulations.
8. Obtain and prepare Title Reports that meet DEPARTMENT format and standards, for all affected R/W parcels.
9. Right of Way mapping shall be done in accordance with the "Attachment 2" checklist of the DEPARTMENT'S Right of Way Mapping Development Procedures Current Update. The surveyor shall verify and certify the checklist and the Right of Way maps.

10. Appraisals shall not begin until the "CITY" has 100% complete R/W maps. "CITY" or contracted (fee) appraisers shall not be used unless fully qualified.
11. Appraisal Reports shall be prepared in conformance with Federal and Statutes and regulations. In no event shall the appraisal review function be contracted to a consultant. One purpose of appraisal review is to assure that the appraisal meets DEPARTMENT requirements prior to the initiation of acquisition.
12. "CITY" or contracted (fee) negotiators shall not be used unless fully qualified.
13. The "CITY" shall maintain all records and documents relating to the Right of Way acquisition for a minimum of five (5) years, and shall record all transfer of ownership documents with the County Clerk. DEPARTMENT personnel shall be provided access to project R/W files upon reasonable notice.
14. The "CITY" shall furnish the DEPARTMENT with a written certification (R/W Certification) stating that Right of Way acquisition (and relocations, if applicable) has been performed in compliance with Federal and State laws and regulations.

**APPENDIX C****Construction Phase Duties and Obligations**

1. The "CITY" shall be responsible for all construction engineering, including project supervision, surveying, inspection and testing when surveying and testing are not contracting items.
2. The CITY'S general conditions, standard drawings and specifications may be used if approved by the DEPARTMENT'S District Engineer.

## CERTIFICATION NO. 1

## CERTIFICATION OF THE PRE-CONSTRUCTION CONTRACT PHASE

Control No. L100005

Project No. MAP-7613(904)

I, \_\_\_\_\_, in my capacity as \_\_\_\_\_ of \_\_\_\_\_ do hereby certify with reference to the aforementioned Project Control Number as follows:

1. That the "CITY" has complied with the terms and conditions of the pre-construction phase requirements set forth in this Agreement.
2. That the design for this Project is in compliance with all state laws, rules, regulations, and local ordinances and in the rules and regulations of the DEPARTMENT.
3. The "CITY" (including, but not limited to, Temporary Construction Permits and Construction Maintenance Easements) has acquired that all necessary right(s)-of-way for the construction or reconstruction of this project in compliance with the DEPARTMENT'S Right of Way Handbook (Current Edition) Local Public Agencies, and Appendix B.
4. That all utilities within the location of this construction project (check one or both of the following conditions):
  - a. have been relocated
  - b. are scheduled for relocation prior to or concurrent with construction of this project and have been coordinated with the appropriate utility.
5. That the "CITY" has encumbered the necessary funds to complete the project.
6. That the "CITY" has fully complied with the requirements of NMSA 67-3-62.
7. That roadway(s) and intersection(s) shall operate at a minimum Level of Service of C or D (LOS C or D) for the projected 20 year design traffic volumes as specified in A Policy on Geometric Design of Highways and Streets, (Current Edition).
8. That traffic data collection, traffic projections, and traffic impact studies on this project have

- been developed in conformance with the **DEPARTMENT'S New Mexico Traffic Survey and Standards**, (Current Edition).
9. That no angle parking has been provided in this project.
  10. That the "CITY" has completed a (check, which of the following conditions exists):
    - \_\_\_\_\_ a. 20 year pavement design; or
    - \_\_\_\_\_ b. 10 year pavement design with provision for extending the pavement life to 20 years, and has incorporated it in the plans and specifications for this project.
  11. That the "CITY" has completed a project drainage report, which meets the **DEPARTMENT'S** minimum drainage criteria as referenced in the **DEPARTMENT'S Drainage Manual**.
  12. All drainage costs have been prorated between the **DEPARTMENT** and the "CITY" if applicable, according to the **DEPARTMENT'S Drainage Policy and Administrative Memorandum (Current Update)** and prorated calculations have been approved in writing by the **DEPARTMENT'S** Drainage Section.
  13. That the "CITY" has completed all required Environmental Documentation and clearances for this project using guidance contained in the **DEPARTMENT'S Action Plan**, (Current Edition).
  14. That the "CITY" has completed all required Archaeological Documentation and clearances for this project using guidance contained in the **DEPARTMENT'S Action Plan**, (Current Edition).
  15. That the following attached agreement(s) have been executed, when required, for construction or reconstruction of this project (attach copies to this certification):
    - a. Lighting;
    - b. signalization;
    - c. storm sewer and lift station;
    - d. landscape;
    - e. road exchange; and
    - f. any other applicable agreements.
  16. That the "CITY" has complied with and certifies compliance with all applicable provisions

of Appendix A.

- 17. That this certification procedure has been executed prior to advertisements for contract bids or commencement of this project.

IN WITNESS WHEREOF, \_\_\_\_\_ in his/her  
 capacity as \_\_\_\_\_ of \_\_\_\_\_ does hereby  
 certify that the aforementioned matters stated herein are true to his/her knowledge and belief and  
 does hereby set his/her hand and seal this day and year specified below:

**"City of Las Cruces"**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
 Mayor

**ATTEST:**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
 "CITY" Clerk

When completed, send Certification No. 1 to:  
**District One LGRF Coordinator**  
**New Mexico Department of Transportation**

**CERTIFICATION NO. 2**

**CERTIFICATION OF THE CONSTRUCTION PHASE**

Control No. L100005

Project No. MAP-7613(904)

I, \_\_\_\_\_, in my capacity as \_\_\_\_\_ of \_\_\_\_\_ do hereby certify with reference to the aforementioned Project

Control Number as follows:

1. That the "CITY" has complied with the terms and conditions of the construction phase requirements under this Agreement.
2. That the "CITY" has complied with and certifies that the project plan complies with all publications identified in Appendix A.
3. That all work in Control No. L100005 was performed in accordance with the Agreement.
4. That the total project cost of \_\_\_\_\_, with New Mexico Department of Transportation "DEPARTMENT" 75% share of \_\_\_\_\_ and the "CITY" share of \_\_\_\_\_ (as submitted in attached "As Built Summary of Costs and Quantities") is accurate, legitimate, and appropriate for the project.
5. That the construction of the project was completed on \_\_\_\_\_ of \_\_\_\_\_, 200[ ]

IN WITNESS WHEREOF, \_\_\_\_\_ in his/her capacity as \_\_\_\_\_ of \_\_\_\_\_ does hereby certify the aforementioned matters stated herein are true to his/her knowledge and belief and does hereby set his/her hand and seal this day and year specified below:

"City of Las Cruces"

By: \_\_\_\_\_ Date: \_\_\_\_\_

Mayor

ATTEST:

By: \_\_\_\_\_ Date: \_\_\_\_\_

"CITY" Clerk

When completed, send Certification No. 2 to:

**District One LGRF Coordinator, New Mexico Department of Transportation**

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

<b>FUND</b>	<b>DIVISION</b>		<b>FUND TYPE</b>	
<b>GRT Street Maintenance Fund 4202</b>	<b>Public Works</b>		<b>Capital Project</b>	
	<b>FY 2009/10 Projected*</b>	<b>FY 2010/11 Adopted</b>	<b>Adjustment</b>	<b>FY 2010/11 Adjusted</b>
<b>RESOURCES</b>				
Beginning Balance	\$ 341,395	1,798,764		1,798,764
<b>REVENUES</b>				
512010 Municipal Gross Receipts	\$ 6,280,000	6,434,000		6,434,000
570010 Interest Income	9,494	8,000		8,000
570015 Net Incr (Decr) Fair Value Investment	0	0		0
592001 Other Revenue - GGRT St Maintenance	387,666	350,000		350,000
<b>Total Revenues</b>	\$ 6,677,160	6,792,000	0	6,792,000
<b>Total Resources</b>	\$ 7,018,555	8,590,764	0	8,590,764
<b>EXPENDITURES</b>				
42226020 Contract Services (admin fee for GRT collect.)	\$ 174,026	178,294		178,294
42806130 ADA Improvements	220,000	250,000		250,000
42806130 Sidewalk Reconstruction - Capital	50,000	100,000		100,000
42806140 Overlay	1,163,360	1,300,000		1,300,000
42806150 Sealing	171,640	1,200,000		1,200,000
70K02 Del Rey Widening (MAP Match)	226,747	0		0
70M0F Traffic Signal Improvements	0	150,000		150,000
70Q02 Union Avenue/Stern Drive Intersection Imp	0	13,500		13,500
70R01 Stern Street Lighting (Co-op Match)	399	0		0
71010 Solano Drive A.D.A. (Spruce/Cactus)	0	25,000		25,000
70Y02 Telshor/Lohman Intersection Improvements	213,248	75,579		75,579
70Z01 MAP Project (Match)	0	125,000		125,000
42806090 Equipment Replacement	250,000	0		0
70M30 El Paseo/Idaho Intersection Improvements	0	126,356		126,356
42806090-851200 Paving Maintenance Software	0	250,000		250,000
70XXX MAP Project Match (S. Main Reconstruction)	0	0	76,006	76,006
60817 Downtown North	0	131,392		131,392
<b>Total Expenditures</b>	\$ 2,469,420	3,925,121	76,006	4,001,127
<b>OTHER FINANCING SOURCES (USES)</b>				
Transfer to Fund 1005 - Engineering Services	\$ (760,000)	(1,220,210)		(1,220,210)
Transfer to Fund 2600 - Street Maintenance Operations	(482,386)	(558,851)		(558,851)
Transfer to Fund 3230 - 1999 GRT Bonds	(1,238,840)	(831,937)		(831,937)
Transfer to Fund 3613 - NMFA Street Loans DS	(85,847)	(606,729)		(606,729)
Transfer to Fund 3615 - New Street Projects Loans DS	(203,298)	(1,193,306)		(1,193,306)
Transfer from Fund 4208 - 1991 Improvement District	20,000	6,358		6,358
<b>Total Other Financing Sources (Uses)</b>	\$ (2,750,371)	(4,404,675)	0	(4,404,675)
Adjustment due to accrual				
<b>ENDING BALANCE</b>	\$ 1,798,764	260,968	(76,006)	184,962

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

## EXHIBIT "B" CONTINUED

CITY OF LAS CRUCES  
ADOPTED BUDGET FY 2010/2011

Page 1 of 2

FUND	DIVISION		FUND TYPE	
State Street Improvement Grants Fund 4212	Public Works		Capital Project	
	FY 2009/10 Projected*	FY 2010/11 Adopted	Adjustment	FY 2010/11 Adjusted
<b>RESOURCES</b>				
Beginning Balance	\$ 119,904	119,904		119,904
<b>REVENUES</b>				
60805 Downtown Revitalization	242,576	128,135		128,135
60806 Downtown Revitalization	19,777	103,105		103,105
70400 Flood Control Dam Restoration	63,147	0		0
70740 Valley Drive Master Plan	0	0		0
70A07 Elks Drive Widening	0	0		0
70D01 Central/Calico Drainage Channel	0	0		0
70E01 El Molino Reconstruction	0	0		0
70E02 El Molino Reconstruction	0	0		0
70E05 El Molino Reconstruction	0	0		0
70E06 El Molino Reconstruction	0	0		0
70F04 East Mesa Road Improvements	360,895	0		0
70F17 East Mesa - Davis/Jefferson Roads	16,755	0		0
70F18 Solano Drive Improvements	0	0		0
70K02 Del Rey Blvd Reconstruction	541,441	0		0
70M0A Tashiro Road	0	0		0
70P00 NM Energy/Mineral Resources (Triviz)	0	0		0
70Q00 Union Avenue	178,125	0		0
70Q01 Union Avenue Multi Use Path	11,919	0		0
70Q02 Union Avenue/Stern Drive Intersection Imp	0	40,500		40,500
70R00 NM DOT Grant (Street Lighting)	10,000	10,280		10,280
70R01 Stern Street Lighting	0	0		0
70S01 Court Avenue Sidewalks	0	0		0
70T01 Fred Way	0	0		0
70U01 Jack Rabbit Interchange	362,625	0		0
70W01 Las Cruces Main Street Downtown	0	1,176,000		1,176,000
70W02 Las Cruces Main Street Downtown	0	0		0
70Y02 Telshor/Lohman Intersection Imp (GRIP 2)	1,971,656	1,733,344		1,733,344
71010 Solano Drive A.D.A. Imp (Spruce/Cactus)	0	38,429		38,429
70Z01 Amador Rehab (Archuleta to Motel Blvd)	0	179,126		179,126
70XXX S. Main Reconstruction/Rehab (Alameda/Idaho)	0	0	228,019	228,019
<b>Total Revenues</b>	\$ 3,778,916	3,408,919	228,019	3,636,938
<b>Total Resources</b>	\$ 3,898,820	3,528,823	228,019	3,756,842

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

## EXHIBIT "B" CONTINUED

CITY OF LAS CRUCES  
ADOPTED BUDGET FY 2010/2011

Page 2 of 2

FUND	DIVISION		FUND TYPE	
State Street Improvement Grants Fund 4212	Public Works		Capital Project	
	FY 2009/10 Projected*	FY 2010/11 Adopted	Adjustment	FY 2010/11 Adjusted
<b>EXPENDITURES</b>				
60805 Downtown Revitalization	\$ 242,576	128,135		128,135
60806 Downtown Revitalization	19,777	103,105		103,105
70400 Flood Control Dam Restoration	63,147	0		0
70740 Valley Drive Master Plan	0	0		0
70A07 Elks Drive Widening	0	0		0
70D01 Central/Calico Drainage Channel	0	0		0
70E01 El Molino Reconstruction	0	0		0
70E02 El Molino Reconstruction	0	0		0
70E05 El Molino Reconstruction	0	0		0
70E06 El Molino Reconstruction	0	0		0
70F04 East Mesa Road Improvements	360,895	0		0
70F17 East Mesa - Davis/Jefferson Roads	16,755	0		0
70F18 Solano Drive Improvements	0	0		0
70K02 Del Rey Blvd Reconstruction	541,441	0		0
70M0A Tashiro Road	0	0		0
70P00 Triviz Multi-Use Path	0	0		0
70Q00 Union Avenue	178,125	0		0
70Q01 Union Avenue Multi Use Path	11,919	0		0
70Q02 Union Avenue/Stern Drive Intersection Imp	0	40,500		40,500
70R00 Street Lighting	10,000	10,280		10,280
70R01 Stern Street Lighting	0	0		0
70S01 Court Avenue Sidewalks	0	0		0
70T01 Fred Way	0	0		0
70U01 Jack Rabbit Interchange	362,625	0		0
70W01 Las Cruces Main Street Downtown	0	1,176,000		1,176,000
70W02 Las Cruces Main Street Downtown	0	0		0
70Y02 Telshor/Lohman Intersection Imp (GRIP 2)	1,971,656	1,733,344		1,733,344
71010 Solano Drive A.D.A. Imp (Spruce/Cactus)	0	38,429		38,429
70Z01 Amador Rehab (Archuleta to Motel Blvd)	0	179,126		179,126
70XXX S. Main Reconstruction/Rehab (Alameda/Idaho)	0	0	228,019	228,019
<b>Total Expenditures</b>	\$ 3,778,916	3,408,919	228,019	3,636,938
<b>OTHER FINANCING SOURCES (USES)</b>				
Transfer from Fund 1000 - General Fund	\$			
<b>Total Other Financing Sources (Uses)</b>	\$ 0	0	0	0
<b>ENDING BALANCE</b>	\$ 119,904	119,904	0	119,904

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