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# City of Las Cruces<sup>®</sup>

PEOPLE HELPING PEOPLE

## Council Action and Executive Summary

Item # 15

Ordinance/Resolution# 12-064

For Meeting of \_\_\_\_\_  
(Ordinance First Reading Date)

For Meeting of October 3, 2011  
(Adoption Date)

**TITLE: A RESOLUTION APPROVING A SIGNALIZATION AND LIGHTING AGREEMENT BETWEEN THE CITY OF LAS CRUCES AND THE NEW MEXICO DEPARTMENT OF TRANSPORTATION FOR THE INSTALLATION OF TRAFFIC SIGNALS AT THE INTERSECTIONS OF ENGLER ROAD/ ELKS ROAD AND ENGLER ROAD/DEL REY BOULEVARD; AND ROADWAY LIGHTING ON ENGLER ROAD BETWEEN ELKS ROAD AND DEL REY BOULEVARD, PROJECT NO D1028, PCN D1028.**

**PURPOSE(S) OF ACTION:**

To establish a signalization and lighting agreement between City of Las Cruces and New Mexico Department of Transportation.

<b>COUNCIL DISTRICT: 6</b>		
<b><u>Drafter/Staff Contact:</u></b> Karyn Schmidt <i>KS</i>	<b><u>Department/Section:</u></b> Transportation/Traffic Engineering	<b><u>Phone:</u></b> 528-3125
<b><u>City Manager Signature:</u></b> 		

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

The New Mexico Department of Transportation (NMDOT) is designing and constructing a project (D1028, PCN D1028) for the installation of traffic signals at the intersections of Engler Road/Elks Road and Engler Road/Del Rey Boulevard; and roadway lighting on Engler Road between Elks Road and Del Rey Boulevard.

Pursuant to the agreement, NMDOT will provide for the design and construction of the signal and lighting system at the aforementioned intersections. This will entail the installation of all equipment and materials for complete signalization and lighting of the intersections. This agreement is for the maintenance of those signals and lights by City forces to include replacement material and power costs. The estimated annual maintenance costs will be in the range of \$9,550 (approximately 40% power costs; 60% maintenance costs). Expenditures for estimated future maintenance costs will be allocated out of fiscal year 2011/2012 budget.

The signal and lighting systems are being installed primarily to assist in relieving traffic congestion and to promote traffic safety. NMDOT requires that the City enter into the attached maintenance agreement to facilitate the future upkeep of the signal and lighting system upon final acceptance of the project. This resolution authorizes the City to enter into such agreement with NMDOT.

**SUPPORT INFORMATION:**

1. Resolution.
2. Exhibit "A", Signalization and Lighting Agreement.

**SOURCE OF FUNDING:**

<b>Is this action already budgeted?</b>	Yes	<input checked="" 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.	
<b>Does this action create any revenue?</b>	Yes	<input type="checkbox"/>	Funds will be deposited into this fund: ( ) in the amount of ____ for ____.
	No	<input checked="" 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
<i>W</i> General Fund	10226040-730110	\$1,150.00	\$110,068.77	\$108,918.77	Operating Expenses
General Fund	10226040-726200	\$3,500.00	\$878,165.66	\$874,665.66	Operating Expenses
General Fund	10226050-730110	\$1,900.00	\$100,371.48	\$ 98,471.48	Operating Expenses
General Fund	10226050-726200	\$3,000.00	\$164,813.46	\$161,813.46	Operating Expenses

**OPTIONS / ALTERNATIVES:**

1. Vote "Yes", this action will approve a signalization and lighting agreement between the City of Las Cruces and the New Mexico Department of Transportation for the installation of traffic signals at the intersections of Engler Road/Elks Road and Engler Road/Del Rey Boulevard; and roadway lighting on Engler Road between Elks Road and Del Rey Boulevard, Project No. D1028, PCN D1028.

2. Vote "No", this action will not approve a signalization and lighting agreement between the City of Las Cruces and the New Mexico Department of Transportation for the installation of traffic signals at the intersections of Engler Road/Elks Road and Engler Road/Del Rey Boulevard; and roadway lighting on Engler Road between Elks Road and Del Rey Boulevard, Project No. D1028, PCN D1028.
3. Vote to "Amend", this action could approve the agreement with adjustments to conditions or changes as requested by City Council. One alternative may be to accept material replacement costs and not associated power costs.
4. Vote to "Table", this action could postpone the resolution per the Council's discretion and direction to staff.

**REFERENCE INFORMATION:**

N/A

RESOLUTION NO. 12-064

**A RESOLUTION APPROVING A SIGNALIZATION AND LIGHTING AGREEMENT BETWEEN THE CITY OF LAS CRUCES AND THE NEW MEXICO DEPARTMENT OF TRANSPORTATION FOR THE INSTALLATION OF TRAFFIC SIGNALS AT THE INTERSECTIONS OF ENGLER ROAD/ ELKS ROAD AND ENGLER ROAD/DEL REY BOULEVARD; AND ROADWAY LIGHTING ON ENGLER ROAD BETWEEN ELKS ROAD AND DEL REY BOULEVARD, PROJECT NO D1028, PCN D1028.**

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

**WHEREAS**, The New Mexico Department of Transportation is currently designing and constructing a project for the installation of traffic signals at the intersections of Engler Road/Elks Road and Engler Road/Del Rey Boulevard; and roadway lighting on Engler Road between Elks Road and Del Rey Boulevard; and

**WHEREAS**, this will entail the installation of all equipment and materials for complete signalization and lighting of the intersections; and

**WHEREAS**, the estimated annual maintenance costs will be in the range of \$9,550 (approximately 40% power costs; 60% maintenance costs); and

**WHEREAS**, the signal and lighting systems are being installed primarily to assist in relieving traffic congestion and to promote traffic safety.

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

(1)

**THAT** the City Manager of the City of Las Cruces is hereby authorized to enter into an agreement as outlined in Exhibit "A" with the New Mexico State Department of Transportation to maintain the signal and lighting systems in order to facilitate the future upkeep.

(II)

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

DONE AND APPROVED this \_\_\_ day of \_\_\_\_\_ 2011.

APPROVED:

(SEAL)

ATTEST:

\_\_\_\_\_  
Mayor

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

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

752

CONTRACT NO.: \_\_\_\_\_

VENDOR NO: \_\_\_\_\_

**SIGNALIZATION AND LIGHTING AGREEMENT**

THIS AGREEMENT, made and entered into pursuant to the provisions of NMSA 1978, Section 67-3-28, as amended, this \_\_\_\_ day of \_\_\_\_\_, 2011, by and between the NEW MEXICO DEPARTMENT OF TRANSPORTATION, acting by and through the SECRETARY, hereinafter called the DEPARTMENT, and the CITY OF LAS CRUCES, New Mexico, acting by and through its duly elected officials, hereinafter called the PUBLIC ENTITY.

**RECITALS:**

WHEREAS, the DEPARTMENT contemplates the letting of a contract for the construction of a roadway project within the boundaries of the PUBLIC ENTITY, said project being identified as D1028, PCN D1028, within the boundaries of the City of Las Cruces, New Mexico.

WHEREAS, the PUBLIC ENTITY and the DEPARTMENT agree with the need for installation of traffic signals at the intersections of Engler Road with Elks Road and Del Rey Blvd. and roadway lighting on Engler Road between Elks Road and Del Rey Blvd., the exact design to be determined by the DEPARTMENT.

WHEREAS, the installation of the traffic signals will assist in relieving traffic congestion and the roadway lighting will promote traffic safety.

WHEREAS, it is the desire of the parties to set forth their understandings and agreements pursuant to which the improvements shall be made and subsequently operated and maintained as required.

NOW THEREFORE,

SECTION I: THE DEPARTMENT SHALL:

1. Provide the necessary plans and estimates and other documents required for the construction of the Project and cause the Project to be constructed in the manner provided by law in accordance with such plans and documents.
2. Provide and install new lighting and signalization system(s) including 28 each Type II, 250 watt high pressure sodium lamps to meet New Mexico State Night Sky Protection Act, 23 each Type V Standard 35' poles, 2 each underpass lamps, 3 each Type I Standard 10' Arm poles, 3 each Type I Standard 15' Arm Poles, 1 each Type II Standard 35' Arm pole, 1 each Type II Standard 45' Arm pole, 1 each Type III Standard 20' Arm pole, 3 each Type III Standard 35' Arm poles, Cabinets, Manholes, Conductor Cable, Communication Cable, Traffic Signal Assemblies, Pedestrian Signals, Video Cable, Video Cameras, Traffic Actuated Controllers, System Master, Closed Loop Traffic Control System, Controller Interconnect System, and all other appurtenances.

SECTION II: THE PUBLIC ENTITY SHALL:

1. After subject signal system/lighting system has/have been constructed, provide for, at its own expense, all electrical energy, telephone communication, lighting fixtures, routine maintenance such as lamp and/or luminaire replacement, emergency shutdown in case of accidental damage or equipment failure and make any repairs necessary due to accidental damage to, or equipment failure of, the underground conduit, cables, pull-boxes, signal heads, lighting fixtures and poles.
2. At its expense, maintain the lighting system, signal control equipment (the "Controller"), and repair or replace the Controller in the event the Controller and/or cabinet is damaged, or there is an equipment failure, including the vehicle detection system and cameras.

3. Make all timing adjustments to the signal control equipment and review the signal system(s) for efficient and satisfactory operation.

4. In the event that accidental damage or equipment failure should occur, provide for equipment shut down and/or emergency traffic control as needed. In addition, should the accidental damage or equipment failure involve the Controller, promptly notify the Traffic Services Section of the DEPARTMENT.

5. Make ample future provisions in its budget each year for the cost of maintaining and providing energy to the traffic signals.

#### SECTION III: THIRD PARTY BENEFICIARIES:

It is not intended by any of the provisions of any part of this 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(s) for wrongful death(s), bodily and/or personal injury(ies) to person(s), damage(s) to property(ies), and/or any other claim(s) whatsoever pursuant to the provisions of this AGREEMENT.

#### SECTION IV: NEW MEXICO TORT-CLAIMS ACT:

As between the DEPARTMENT and PUBLIC ENTITY, neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this AGREEMENT. Any liability incurred in connection with this AGREEMENT is subject to the immunities and limitations of New Mexico Tort Claims Act (Section 41-4-1, et seq. N.M.S.A. 1978) and any amendments thereto. This paragraph is intended only to define the liabilities between the parties hereto and it is not intended to modify, in any way, the parties' liabilities as governed by common law or the New Mexico Tort Claims Act. By entering this AGREEMENT, the DEPARTMENT and the PUBLIC ENTITY, and their "public employees" as defined in the New Mexico Tort Claims Act, do not waive any sovereign immunity, nor do they waive any

limitation(s) of liability pursuant to law. No provision in this AGREEMENT modifies or waives any provision of the New Mexico Tort Claims Act.

**SECTION V: SCOPE OF AGREEMENT:**

This AGREEMENT 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 this written AGREEMENT. No prior AGREEMENT or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this AGREEMENT.

**SECTION VI: TERMS OF THIS AGREEMENT:**

The terms of this AGREEMENT are lawful; performance of all duties and obligations herein shall conform with and do not contravene any state, local, or federal statutes, regulations, rules, or ordinances.

**SECTION VII: EQUAL OPPORTUNITY COMPLIANCE:**

The parties agree to abide by all 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 parties agree to assure that no person in the United States shall, on the grounds of race, color, national origin, ancestry, sex, sexual preference, age or handicap, be excluded from employment with, or participation in, any program or activity performed under this AGREEMENT. If the parties are found to not be in compliance with these requirements during the term of this AGREEMENT, the parties agree to take appropriate steps to correct these deficiencies.

**SECTION VIII: APPROPRIATIONS AND AUTHORIZATIONS:**

The terms of this AGREEMENT are contingent upon sufficient appropriations and authorizations being made by the Legislature of New Mexico, or the Congress of the United States if federal funds are involved, for performance of the AGREEMENT. If sufficient appropriations and authorizations are not made by the Legislature or the Congress of the United States if federal funds are involved, this AGREEMENT shall terminate upon written notice being given by the DEPARTMENT to the PUBLIC ENTITY. 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 IX: SEVERABILITY:**

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

**SECTION X: PUBLIC ENTITY SOLE JURISDICTION:**

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

**SECTION XI: PROJECT RESPONSIBILITY:**

Design, construction and installation for this Project are the DEPARTMENT's sole responsibility and nothing is intended to give the DEPARTMENT any responsibility for future maintenance of the Project or related road improvement within the PUBLIC ENTITY's road system.

SECTION XII: CONTINGENT ON PROJECT BEING LET:

In the event that the Project is not let for any reason, this AGREEMENT shall become null and void and shall create no obligation on any of the parties.

SECTION XIII: 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 hereto have executed this AGREEMENT the day and year hereinafter first written.

CITY OF LAS CRUCES

NEW MEXICO DEPARTMENT OF  
TRANSPORTATION

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

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

ATTEST: \_\_\_\_\_  
Date

RECOMMENDED BY

\_\_\_\_\_  
State Traffic Engineer Date

\_\_\_\_\_  
Traffic Services Engineer Date

\_\_\_\_\_  
District Engineer Date

Approved as to form, and legal sufficiency  
By the New Mexico Department of  
Transportation's Office of General Counsel

By: Gynthia A. Christ 9-12-11  
Assistant General Counsel Date