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

**Council Action and Executive Summary**

Item # 4      Ordinance/Resolution# 12-068

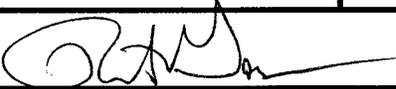
For Meeting of \_\_\_\_\_  
 (Ordinance First Reading Date)

For Meeting of October 17, 2011  
 (Adoption Date)

**TITLE: A RESOLUTION ACCEPTING ADDITIONAL ONE-TIME SPECIAL DISTRIBUTION FEDERAL HIGHWAY ADMINISTRATION (FHWA) FUNDING FOR THE LAS CRUCES METROPOLITAN PLANNING ORGANIZATION (LCMPO) AND AMENDING THE ADOPTED FY2012 CITY BUDGET FOR MPO FUND 2090 TO REFLECT THE \$93,992 INCREASE IN THE MPO PLANNING PROGRAM AS PER THE NEW MEXICO DEPARTMENT OF TRANSPORTATION (NMDOT) WORK AUTHORIZATION.**

**PURPOSE(S) OF ACTION:**

To accept a one-time special distribution of Federal Highway Administration (FHWA) funding and to amend the approved FY2012 budget for the MPO Program.

<b>COUNCIL DISTRICT: N/A</b>		
<b><u>Drafter/Staff Contact:</u></b> Vincent M. Banegas	<b><u>Department/Section:</u></b> CD/Planning and MPO	<b><u>Phone:</u></b> 528-3064
<b><u>City Manager Signature:</u></b>		

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

The Las Cruces Metropolitan Planning Organization (LCMPO) through the City of Las Cruces which acts as both the administrative and fiscal agent for the organization currently operates under a Memorandum of Agreement (M00532) with the New Mexico Department of Transportation (NMDOT). This Memorandum of Agreement (MOA) outlines the roles each entity is to conduct in regard to transportation planning activities/processes within the LCMPO service area and calls for among other things, a Unified Planning Work Program (UPWP) that outlines yearly planning tasks and projects to be completed by the LCMPO. These activities and projects are funded by both grant and matching funds made available by FHWA through NMDOT every year. Typically, NMDOT informs of actual funding amounts made available to the LCMPO via Work Authorizations that ultimately identify funds for the MPO Planning, MPO Traffic Count, MPO Multi-Modal and Safe Routes to School programs. Occasionally, NMDOT will grant special distributions of funding to an MPO should unspent or unobligated fund monies become available. At present, NMDOT has through the Work Authorization provided in this packet, made available additional funds in the amount of \$93,992. There is a local match required in the use of these funds equal to \$16,017 (14.56%) should these funds be accepted and spent. In discussing match options for this special distribution with NMDOT, MPO staff has been informed that application of an in-kind match may be applied resulting in no direct impact

to the City's general fund should use of these funds go toward a project for which the City is the lead agency.

For the current FY11/12 budget, the MPO was allocated PL112 grant funding in the amount of \$229,085, requiring a match amount of \$39,039 for a total project amount of \$268,124. These planning funds represent those used to operate both the MPO Planning and MPO Traffic Count Programs. Generally speaking 80% of the grant goes toward MPO Planning and 20% is directed to the MPO Traffic Count Program. This Resolution seeks to add the special distribution grant amount of \$93,992 to the funding allocated to the MPO Planning Program. Specifically, this amount will be added to the purchased services line item which is reflected in the fund expenditure summary table.

In consideration of the special funds, MPO staff approached the MPO Policy Committee earlier in the year to discuss the funding availability and potential use. The Policy Committee agreed with staff suggestion in that use of the special funds should be applied to any one of the unfunded projects identified on the Transportation Improvement Program (TIP). As such, the monies may be used by any of the three participating governmental entities within the MPO structure and the lead entity whose project receives the funding will be tasked with recording and compiling all in-kind match data necessary to satisfy 23CFR\_420 reporting requirements. As such, no one of the lead governmental agencies that use these funds will need to provide general fund monies for match purposes.

**SUPPORT INFORMATION:**

1. Resolution.
2. Exhibit "A", Budget Adjustment.
3. Attachment "A", NMDOT Work Authorization dated June 27, 2011.
4. Attachment "B", Excerpt from 23CFR\_420, Section 420.119 (Fiscal Requirements).
5. Attachment "C", 2012 TIP Unfunded Prioritized Projects.

**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 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.
<b>Does this action create any revenue?</b>	Yes	<input checked="" type="checkbox"/>	Funds will be deposited into this fund: 2090 in the amount of \$93,992.00 for FY12.
	No	<input type="checkbox"/>	There is no new revenue generated by this action.

**BUDGET NARRATIVE**

The anticipated grant funding in the amount of \$93,992.00 will go toward the planning costs of any of the TIP's unfunded projects. No general fund match monies are required for this grant in that in-kind match provisions can be applied by the agency within the MPO structure that ultimately uses these funds. Therefore no additional monies are necessary for the utilization of this grant.

**FUND EXPENDITURE SUMMARY:**

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
2090 – MPO Transportation Fund	2090-20184060-722190-30105	\$93,992.00	\$170,492.00	\$26,448.00	Carryout MPO planning activities as specified in the Unified Planning and Work Program of which \$93,992.00 will be specifically targeted to help fund one of the unfunded projects on the TIP.

**OPTIONS / ALTERNATIVES:**

1. Vote "Yes"; this will accept the special distribution grant funds in the amount of \$93,992.00 from the Federal Highway Administration (FHWA) through NMDOT to assist in providing planning funds for unfunded TIP projects and will amend the FY12 MPO Planning Program budget as identified.
2. Vote "No"; this will reject the special distribution grant funds resulting in no new planning funds being incorporated into the FY12 budget.
3. Vote to "Amend"; limitations exist in that the issue is acceptance or rejection of the stated funds and based on the funding source which is via FHWA planning funds, no redirection of the monies for another purpose other than planning exists.
4. Vote to "Table"; and direct staff accordingly.

**REFERENCE INFORMATION:**

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

1. N/A

**RESOLUTION NO. 12-068**

**A RESOLUTION ACCEPTING ADDITIONAL ONE-TIME SPECIAL DISTRIBUTION FEDERAL HIGHWAY ADMINISTRATION (FHWA) FUNDING FOR THE LAS CRUCES METROPOLITAN PLANNING ORGANIZATION (LCMPO) AND AMENDING THE ADOPTED FY2012 CITY BUDGET FOR MPO FUND 2090 TO REFLECT THE \$93,992 INCREASE IN THE MPO PLANNING PROGRAM AS PER THE NEW MEXICO DEPARTMENT OF TRANSPORTATION (NMDOT) WORK AUTHORIZATION.**

The City Council is informed that:

**WHEREAS**, the City of Las Cruces serves as the administrative and fiscal agent for the Las Cruces Metropolitan Planning Organization (LCMPO) pursuant to the approved Memorandum of Agreement (MOA) dated December 7, 2005; and

**WHEREAS**, the LCMPO under said MOA is required to carry out specified transportation planning activities for the LCMPO service area on behalf of the participating jurisdictions (City of Las Cruces, Dona Ana County and Town of Mesilla); and

**WHEREAS**, said transportation planning activities are funded yearly by the Federal Highway Administration (FHWA) through the New Mexico Department of Transportation (NMDOT) requiring a local match as part of the condition for acceptance of funds as stipulated on the applicable work authorizations; and

**WHEREAS**, on June 27, 2011, the LCMPO was notified via a work authorization that a one-time special distribution of FHWA planning funds would be made available to the LCMPO in the amount of \$93,992, requiring a local match of \$16,017 which can be met via in-kind match contributions; and

**WHEREAS**, upon discussing the use of these funds with the Metropolitan Planning Organization Policy Committee, a determination was made to use these funds to pay for the planning of prioritized unfunded projects on the 2012 TIP.

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

**(I)**

**THAT** acceptance of the FHWA special distribution planning funds is hereby authorized and the City of Las Cruces adopted Budget for FY2011/12 is hereby amended, as reflected in the Budget Adjustment shown in Exhibit "A," attached hereto and made part of this Resolution.

**(II)**

**THAT** no general fund monies are being requested with this acceptance and amendment action due to the allowance of local match monies to be in the form of in-kind match contributions following appropriate FHWA requirements.

**(III)**

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

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

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

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

(SEAL)

VOTE:

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

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

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

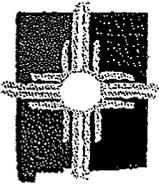
APPROVED AS TO FORM:

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

**CITY OF LAS CRUCES  
ADOPTED BUDGET FY 2011/2012**

<b>FUND</b>	<b>DIVISION</b>		<b>FUND TYPE</b>	
<b>M.P.O. Urban Transportation Fund 2090</b>	<b>Comm Dev</b>		<b>Special Revenue</b>	
	<b>FY 2010/11 Projected*</b>	<b>FY 2011/12 Adopted</b>	<b>Adjustment</b>	<b>FY 2011/12 Adjusted</b>
<b>RESOURCES</b>				
Beginning Balance	\$ 0	0		0
<b>REVENUES</b>				
552009-30100 NM Dept of Trans - Safe Rtes to School	\$ 53,199	90,443		90,443
552009-30105 NM Dept of Trans - MPO Planning	168,255	424,118	93,992	518,110
552007-30205 NM Dept of Trans - Multi-Modal Planning	72,123	175,014		175,014
552009-30305 NM Dept of Trans - Traffic Count	21,463	96,385		96,385
<b>Total Revenues</b>	\$ 315,040	785,960	93,992	879,952
<b>Total Resources</b>	\$ 315,040	785,960	93,992	879,952
<b>EXPENDITURES</b>				
MPO Planning 20184060-30105				
Personnel	\$ 143,991	170,797		170,797
Operating	24,264	215,361	93,992	309,353
Total 20184060	\$ 168,255	386,158	93,992	480,150
MPO Multi-Modal Planning 20184070-30205				
Personnel	\$ 17,393	129,889		129,889
Operating	54,730	93,258		93,258
Total - 20184070	\$ 72,123	223,147	0	223,147
MPO Traffic Count Pgm 20184080-30305				
Personnel	\$ 13,145	24,307		24,307
Operating	8,318	70,556		70,556
Total - 20184080	\$ 21,463	94,863	0	94,863
MPO Safe Routes Pgm 20184270-30100				
Personnel	\$ 48,720	49,023		49,023
Operating	4,479	32,769		32,769
Total - 20184270	\$ 53,199	81,792	0	81,792
<b>Total Expenditures</b>	\$ 315,040	785,960	93,992	879,952
<b>OTHER FINANCING SOURCES (USES)</b>				
Transfer from (to) Fund 1000 - General Fund	\$ 0	0	0	0
<b>Total Other Financing Sources (Uses)</b>	\$ 0	0	0	0
<b>ENDING BALANCE</b>	\$ 0	0	0	0

\*Projected based on 8 months actual through February 28, 2011 and 4 months projected.



NEW MEXICO DEPARTMENT OF  
**TRANSPORTATION**  
MOBILITY FOR EVERYONE

June 27, 2011

**Susana Martinez**  
Governor

Mr. Tom Murphy, MPO Officer  
Las Cruces Metropolitan Planning Organization  
PO Box 20000  
Las Cruces, NM 88004

**Alvin C. Dominguez, P.E.**  
Cabinet Secretary Designate

RE: Work Authorization for FHWA PL 112 Funds for SFY 2012

Dear Mr. Murphy:

**Kenneth White**  
Commissioner, District 1

This letter authorizes the Las Cruces Metropolitan Planning Organization (LCMPO) to seek reimbursement from the NMDOT for work performed according to the LCMPO Unified Planning Work Program for State Fiscal Year 2012. The authorized expenditure level shall be as shown in the table.

**Debra Hicks**  
Commissioner, District 2

**Planning Funds/ Las Cruces MPO July 1, 2011 – June 30, 2012**

Source	Control Number	Project Number	Fiscal Year	Authorized Amount	Local Match	Total
FHWA 112PL	P100017	P100017	FFY 2011	\$229,085	\$39,039	\$268,124
FHWA 112PL	P100019	P100019	Special Distribution	\$ 93,992	\$16,017	\$110,009
<b>TOTAL FUNDING</b>				<b>\$323,077</b>	<b>\$55,056</b>	<b>\$378,133</b>

**Pete Rahn**  
Commissioner, District 3

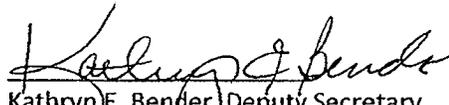
**Ronald Schmeits**  
Commissioner, District 4

**Butch Mathews**  
Commissioner, District 5

**Jackson Gibson**  
Commissioner, District 6

Authorized funding amounts are based on the Surface Transportation Extension Act of 2010 as Amended. This Work Authorization shall terminate on June 30, 2012; however, LCMPO may submit invoices after the termination date for work completed prior to that date. This Work Authorization shall not be altered, changed, or amended except by an instrument in writing. If you have any questions, please contact Anne McLaughlin at 505-827-5508.

Sincerely,

  
Kathryn E. Bender, Deputy Secretary  
Programs & Infrastructure

Date: 7/1/11

Cc: Patricia Oliver-Wright, Planning Division Director  
Dorothy Shepherd, Line Manager, Planning Division  
Anne McLaughlin, Strategic Planning Bureau Chief  
Jolene Herrera, MPO Liaison, SRDC  
Marlene Sandoval, Procurement Services

(The information collection requirements in §420.117 have been approved by the OMB and assigned control numbers 2125-0039 for States and 2132-0529 for MPOs.)

**§ 420.119 What are the fiscal requirements?**

(a) The maximum rate of Federal participation for FHWA planning and research funds shall be as prescribed in title 23, U.S.C., for the specific class of funds used (*i.e.*, SPR, PL, NHS, STP, or MG) except as specified in paragraph (d) of this section. The provisions of 49 CFR 18.24 or 49 CFR 19.23 are applicable to any necessary matching of FHWA planning and research funds.

(b) The value of third party in-kind contributions may be accepted as the match for FHWA planning and research funds, in accordance with the provisions of 49 CFR 18.24(a)(2) or 49 CFR 19.23(a) and may be on either a total planning work program basis or for specific line items or projects. The use of third party in-kind contributions must be identified in the original work program/scope of work and the grant/subgrant agreement, or amendments thereto. The use of third-party in-kind contributions must be approved in advance by the FHWA Division Administrator and may not be made retroactive prior to approval of the work program/scope of work or an amendment thereto. The State DOT or subrecipient is responsible for ensuring that the following additional criteria are met:

- (1) The third party performing the work agrees to allow the value of the work to be used as the match;
- (2) The cost of the third party work is not paid for by other Federal funds or used as a match for other federally funded grants/subgrants;
- (3) The work performed by the third party is an eligible transportation planning or RD&T related activity that benefits the federally funded work;
- (4) The third party costs (*i.e.*, salaries, fringe benefits, etc.) are allowable under the applicable Office of Management and Budget (OMB) cost principles (*i.e.*, OMB Circular A-21, A-87, or A-122);<sup>1</sup>
- <sup>1</sup> OMB Circulars are available on the Internet at <http://www.whitehouse.gov/omb/circulars/index.html>.
- (5) The third party work is performed during the period to which the matching requirement applies;
- (6) The third party in-kind contributions are verifiable from the records of the State DOT or subrecipient and these records show how the value placed on third party in-kind contributions was derived; and
- (7) If the total amount of third party expenditures at the end of the program period is not sufficient to match the total expenditure of Federal funds by the recipient/subrecipient, the recipient/subrecipient will need to make up any shortfall with its own funds.

(c) In accordance with the provisions of 23 U.S.C. 120(j), toll revenues that are generated and used by public, quasi-public, and private agencies to build, improve, or maintain highways, bridges, or tunnels that serve the public purpose of interstate commerce may be used as a credit for the non-Federal share of an FHWA planning and research funded project.

(d) In accordance with 23 U.S.C. 505(c) or 23 U.S.C. 104(f)(3), the requirement for matching SPR or PL funds may be waived if the FHWA determines the interests of the Federal-aid highway program would be best served. Waiver of the matching requirement is intended to encourage State DOTs and/or MPOs to pool SPR and/or PL funds to address national or regional high priority planning or RD&T problems that would benefit multiple States and/or MPOs. Requests for waiver of matching requirements must be submitted to the FHWA headquarters office for approval by the Associate Administrator for Planning and Environment (for planning activities) or the Associate Administrator for Research, Development, and Technology (for RD&T activities). The matching requirement may not be waived for NHS, STP, or MG funds.

**In-kind Match**

**In-Kind  
Criteria**



**Tolls as credit**

**Waiver of  
Matching  
Requirement**

(e) NHS, STP, or MG funds used for eligible planning and RD&T purposes must be identified separately from SPR or PL funds in the work program(s) and must be administered and accounted for separately for fiscal purposes. In accordance with the statewide and metropolitan planning process requirements for fiscally constrained transportation improvement program (TIPs) planning or RD&T activities funded with NHS, STP, or MG funds must be included in the Statewide and/or metropolitan TIP(s) unless the State DOT and MPO (for a metropolitan area) agree that they may be excluded from the TIP.

(f) Payment shall be made in accordance with the provisions of 49 CFR 18.21 or 49 CFR 19.22.

**§ 420.121 What other requirements apply to the administration of FHWA planning and research funds?**

(a) **Audits.** Audits of the State DOTs and their subrecipients shall be performed in accordance with OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations.<sup>2</sup> Audits of for-profit contractors are to be performed in accordance with State DOT or subrecipient contract administration procedures.

<sup>2</sup> See footnote 1.

(b) **Copyrights.** The State DOTs and their subrecipients may copyright any books, publications, or other copyrightable materials developed in the course of the FHWA planning and research funded project. The FHWA reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for Government purposes.

(c) **Disadvantaged business enterprises.** The State DOTs must administer the transportation planning and RD&T program(s) consistent with their overall efforts to implement section 1001(b) of the Transportation Equity Act for the 21st Century (Pub. L. 105-178) and 49 CFR part 26 regarding disadvantaged business enterprises.

(d) **Drug free workplace.** In accordance with the provisions of 49 CFR part 29, subpart F, State DOTs must certify to the FHWA that they will provide a drug free workplace. This requirement may be satisfied through the annual certification for the Federal-aid highway program.

(e) **Equipment.** Acquisition, use, and disposition of equipment purchased with FHWA planning and research funds by the State DOTs must be in accordance with 49 CFR 18.32(b). Local government subrecipients of State DOTs must follow the procedures specified by the State DOT. Universities, hospitals, and other non-profit organizations must follow the procedures in 49 CFR 19.34.

(f) **Financial management systems.** The financial management systems of the State DOTs and their local government subrecipients must be in accordance with the provisions of 49 CFR 18.20(a). The financial management systems of universities, hospitals, and other non-profit organizations must be in accordance with 49 CFR 19.21.

(g) **Lobbying.** The provisions of 49 CFR part 20 regarding restrictions on influencing certain Federal activities are applicable to all tiers of recipients of FHWA planning and research funds.

(h) **Nondiscrimination.** The nondiscrimination provisions of 23 CFR parts 200 and 230 and 49 CFR part 21, with respect to Title VI of the Civil Rights Act of 1964 and the Civil Rights Restoration Act of 1987, apply to all programs and activities of recipients, subrecipients, and contractors receiving FHWA planning and research funds whether or not those programs or activities are federally funded.

Certain Funds  
listed  
separately

TIP & STIP  
inclusion

2012 Transportation Improvement Program Unfunded Prioritized Projects												
Name	Work Description	Cost	Planning	Design	Construction	Average Score TAC	Average Score BPAC	Aggregated Average	PC Discretionary Points	FINAL RANKING	2010 FINAL RANKING (out of 13)	NOTES
Roadrunner Pkwy and Missouri (LCPs)	(Extend Missouri to Roadrunner then to Sonoma Ranch extension) New roadway construction	\$4,200,000	\$105,000	\$315,000	\$3,780,000	78.91	83.00	80.95	14	94.95	8	Updated
University (TOM)	(NM 478 to NM 28) Reconstruct two lane roadway to provide a continuous paved six foot shoulder with a 4 inch edge stripe for bicycle and pedestrian use	\$140,000	\$140,000			83.27	75.80	79.54	15	94.54	1	From 2010 TIP cycle
Dripping Springs (LCPs)	(Telchor to Sonoma Ranch extension) Road widening and signalization	\$7,000,000	\$175,000	\$525,000	\$6,300,000	89.09	87.75	88.42	6	94.42	2	From 2010 TIP cycle
Roadrunner Parkway (CLC)	(Lohman to US 70) Bicycle Lanes - Remove interior curb and gutter around medians and reduce median size by 8 10'; Rebuild curb and gutter around median; Rebuild interior of roadway; Re-stripe with four travel lanes and 4.5' bicycle lanes	\$1,722,000			\$1,722,000	88.82	93.50	91.16	3	94.16	N/A	NEW
University (NMSU)	(Trinoz to Valley) Redesign and reconstruction of University Avenue to include improved bicycle, pedestrian, and transit facilities	\$0				91.09	90.70	90.90	2	92.90	9	From 2010 TIP cycle
Carver (DAC)	(NM 478 to NM 28) Reconstruct current 24' cross section and add 4' bike lanes and 4' sidewalks	\$850,000	\$100,000	\$100,000	\$650,000	84.00	85.50	84.75	2	86.75	N/A	NEW
S Sonoma Ranch (LCPs)	(Dripping Springs to Lohman) New roadway construction	\$11,000,000	\$275,000	\$825,000	\$9,900,000	85.36	87.38	86.37		86.37	5	From 2010 TIP cycle
Arrowhead Interchange (NMSU)	Design and construct an interchange at I-10 and the Arrowhead Research Park at NMSU	\$0				83.82	80.80	82.31		82.31	13	From 2010 TIP cycle
Camino Real and Dona Ana (DAC)	Realign intersection of El Camino Real and Dona Ana School road	\$900,000	\$100,000	\$100,000	\$700,000	79.36	79.70	79.53	1	80.53	7	From 2010 TIP cycle
Transit M & O Facility (CLC)	Construct a new Transit Maintenance and Operations Facility on Motel Blvd	\$5,040,000			\$5,040,000	77.09	79.67	78.38	1	79.38	N/A	NEW
Calle del Norte (TOM)	(NM 28 to Mesilla bridge) Reconstruct two lane roadway to improve drainage and provide a continuous paved six foot shoulder with a 4 inch edge stripe for bicycle and pedestrian use on both the north and south side of Calle del Norte	\$345,000	\$345,000			80.00	73.40	76.70		76.70	6	From 2010 TIP cycle
East-West Corridor (CoC)	(Motel to Trinoz) Location Study for major arterial for access to new development (initial submittal for Construction)	\$1,000,000	\$1,000,000			72.00	72.38	72.19		72.19	N/A	NEW
Highway 292 Trail (TOM)	(Town limits to NM 28) Trail, landscaping, and irrigation along NM 292, two phases	\$282,000			\$282,000	74.64	58.20	66.42		66.42	N/A	NEW