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

**Council Action and Executive Summary**

Item # 11 Ordinance/Resolution# 12-184

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

For Meeting of May 7, 2012  
 (Adoption Date)

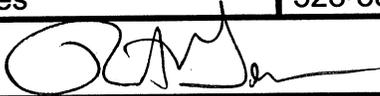
Please check box that applies to this item:

QUASI JUDICIAL                       LEGISLATIVE                       ADMINISTRATIVE

**TITLE: A RESOLUTION AUTHORIZING EL TERRERO CONSTRUCTION, LLC, GENERAL CONTRACTOR FOR THE NEW MEXICO DEPARTMENT OF TRANSPORTATION INTERSTATE 10 AND NEW MEXICO STATE ROAD 292 INTERCHANGE PROJECT, TO WORK OUTSIDE OF THE HOURS OF 7:00 A.M. TO 6:00 P.M. AS REQUIRED BY THE CITY OF LAS CRUCES MUNICIPAL CODE, SECTION 19-131.**

**PURPOSE(S) OF ACTION:**

Authorize a variance to the hours of construction as required by Municipal Code.

<b>COUNCIL DISTRICT: 4</b>		
<b><u>Drafter/Staff Contact:</u></b> Carl Clark	<b><u>Department/Section:</u></b> Utilities	<b><u>Phone:</u></b> 528-3527
<b><u>City Manager Signature:</u></b>		

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

The New Mexico Department of Transportation's (NMDOT) Interstate 10 (I-10) and New Mexico State Road 292 (NM 292) Interchange Project with Project No. 1100360 consists of reconstruction and replacement of eastbound and westbound bridges over NM 292, bridge approaches, on and off ramps, reconstruction of NM 292, relocating utilities, new drainage structures, roadway lighting, and traffic control. The approximate project length is 3.3 miles with the contract time beginning no later than February 26, 2012, and all work scheduled to be completed by December 15, 2012. NMDOT has awarded the project to El Terrero Construction, LLC (Contractor) of Rio Rancho, New Mexico, for a total contract amount of \$9,677,759.70.

In order to minimize inconveniences to residents and the traveling public, the Contractor has requested a variance to the City of Las Cruces Municipal Code, Section 19-131 which stipulates construction hours of 7:00 a.m. to 6:00 p.m. The Contractor would like to schedule bridge removal and replacement, utility work, traffic signalization, and some miscellaneous construction during the nighttime hours.

City staff has reviewed the request and evaluated the potential impact to adjacent residential areas. Based on that review and the proximity of the residential areas to the work site coupled with the type of work proposed, Utilities staff feels there will be a minimal adverse impact to residents if work outside required hours is permitted.

The City staff will coordinate and monitor the conditions and any concerns raised as a result of the variance; and then bring them to the attention of the project officials for immediate action.

**SUPPORT INFORMATION:**

1. Resolution.
2. Attachment "A", Las Cruces Municipal Code Section 19-131.
3. Attachment "B", El Terrero Construction, LLC Letter Request.
4. Attachment "C", New Mexico Department of Transportation Letter Request.
5. Attachment "D", Overall Project Map.
6. Attachment "E", Memo to Utilities Director.

**SOURCE OF FUNDING:**

Is this action already budgeted?  N/A	Yes <input 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.
Does this action create any revenue?  N/A	Yes <input type="checkbox"/>		Funds will be deposited into this fund: _____ in the amount of \$ _____ for FY__.
	No <input type="checkbox"/>		There is no new revenue generated by this action.

**BUDGET NARRATIVE**

N/A
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**FUND EXPENDITURE SUMMARY: N/A**

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
N/A	N/A	N/A	N/A	N/A	N/A

**OPTIONS / ALTERNATIVES:**

1. Vote "Yes"; this will authorize El Terrero Construction, LLC, the contractor for the New Mexico Department of Transportation, to work outside the hours of 7:00 a.m. to 6:00 p.m. on the I-10/NM 292 Interchange Project as required by the City of Las Cruces Municipal Code, Section 19-131.
2. Vote "No"; this will not authorize El Terrero Construction, LLC, the contractor for the New Mexico Department of Transportation, to work outside the hours of 7:00 a.m. to 6:00 p.m. on the I-10/NM 292 Interchange Project as required by the City of Las Cruces Municipal Code, Section 19-131.
3. Vote to "Amend"; this could authorize El Terrero Construction, LLC, the contractor for the New Mexico Department of Transportation, to work specific times outside the hours of 7:00 a.m. to 6:00 p.m. on the I-10/NM 292 Interchange Project.
4. Vote to "Table"; this could allow council to postpone consideration of this Resolution to determine alternate courses of action.

**REFERENCE INFORMATION:**

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

N/A

**RESOLUTION NO. 12-184**

**A RESOLUTION AUTHORIZING EL TERRERO CONSTRUCTION, LLC, GENERAL CONTRACTOR FOR THE NEW MEXICO DEPARTMENT OF TRANSPORTATION INTERSTATE 10 AND NEW MEXICO STATE ROAD 292 INTERCHANGE PROJECT, TO WORK OUTSIDE OF THE HOURS OF 7:00 A.M. TO 6:00 P.M. AS REQUIRED BY THE CITY OF LAS CRUCES MUNICIPAL CODE, SECTION 19-131.**

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

**WHEREAS**, the New Mexico Department of Transportation's (NMDOT) Interstate 10 (I-10) and New Mexico State Road 292 (NM 292) Interchange Project with Project No. 1100360 will consist of reconstruction and replacement of eastbound and westbound bridges over NM 292, bridge approaches, on and off ramps, reconstruction of NM 292, relocating utilities, new drainage structures, roadway lighting, and traffic control; and

**WHEREAS**, the total approximate project length is 3.3 miles and the contract time will begin no later than February 26, 2012 and all work scheduled to be completed by December 15, 2012; and

**WHEREAS**, El Terrero Construction, LLC (Contractor) of Rio Rancho, New Mexico is the general contractor for NMDOT for this project; and

**WHEREAS**, the Contractor has requested a variance to the City of Las Cruces Municipal Code, Section 19-131; and

**WHEREAS**, Las Cruces Municipal Code, Section 19-131 stipulates construction hours of 7:00 a.m. to 6:00 p.m.; and

**WHEREAS**, the Contractor would like to schedule bridge removal and replacement, utility work, traffic signalization, and some miscellaneous construction during the nighttime hours to reduce impact to residents and the traveling public; and

**WHEREAS**, City staff has reviewed the request and evaluated the potential impact to adjacent residential areas and based on that review, Utilities staff feels there will be a minimal adverse impact to residents if work outside required hours is permitted; and

**WHEREAS**, City staff will coordinate and monitor the conditions and any concerns raised as a result of the variance, and will bring them to the attention of the necessary project officials for immediate action.

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

**(I)**

**THAT** El Terrero Construction, LLC, general contractor of NMDOT's Valley Drive Rehabilitation Project, is allowed to work outside of the hours of 7:00 a.m. to 6:00 p.m. as required by the City of Las Cruces Municipal Code, Section 19-131.

**(II)**

**THAT** City staff would reserve the right to reduce or modify the extended hours of operation by written notice to El Terrero Construction, LLC if adverse conditions are observed and cannot be remedied.

**(III)**

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

**DONE AND APPROVED** on this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

APPROVED:

ATTEST:

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

\_\_\_\_\_  
Mayor

(SEAL)

VOTE:

Mayor Miyagishima: \_\_\_\_\_

Councillor Silva: \_\_\_\_\_

Councillor Smith: \_\_\_\_\_

Councillor Pedroza: \_\_\_\_\_

Councillor Small: \_\_\_\_\_

Councillor Sorg: \_\_\_\_\_

Councillor Thomas: \_\_\_\_\_

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

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

APPROVED AS TO FORM:

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

**Sec. 19-131. - Construction, repair or demolition work.**

**Construction, repair or demolition work to commercial or residential buildings, roadways, utility facilities or infrastructure other than between the hours of 7:00 a.m. and 6:00 p.m., which work disturbs the comfort or repose of others, shall be deemed a violation of this division except in case of urgent public necessity as determined by the city council.**

**(Code 1988, § 21-86; Ord. No. 1814, § I, 7-17-00)**

**Cross reference— Buildings and building regulations, ch. 30.**



**EL TERRERO  
CONSTRUCTION LLC.**

P.O. Box 46185  
Rio Rancho, N.M. 87174

Phone: (505) 896-3864  
Fax: (505) 994-1400  
E-mail: [Fdnc5@msn.com](mailto:Fdnc5@msn.com)

March 5, 2012

New Mexico Department of Transportation  
Gabriel Garcia  
750 North Solano  
Las Cruces, NM 88001

Re: Utilities for Demolition Extended Work Hours Request  
Project: CN 1100360/1100360 I-10/292 Interchange, Dona Ana County, NM

To Mr. Garcia,

Per your instruction to reference Section 19.131 we are requesting to work outside of the construction work schedule of 7:00am – 6:00pm. Due to the window of time to complete the above referenced project by the completed date of December 2012 we will need to work on the Utilities, Bridge Removal, Replacement of Existing Bridges, Lightening Signalization and Miscellaneous Construction Work for the project during the extended hours of 6:00pm to 7:00am starting Monday, March 12, 2012.

If you should have any questions, please do not hesitate to contact me at (505)896-3864.

Sincerely,



Lencho Villalobos  
President  
El Terrero Construction LLC



*New Mexico* DEPARTMENT OF  
**TRANSPORTATION**

March 8, 2012

Attn: Eric Navarrete, Contracts Administrator  
City of Las Cruces  
700 N. Main Street  
Las Cruces, NM 88001

Project CN: 1100360 (Motel BLVD.)  
Re: Working hours

Dear Mr. Navarrete:

NMDOT respectfully requests that El Terrero be granted permission to work beyond the normal working hours established within city limits. This contract completion date is December 15, 2012 and requires utility upgrades, signals, culverts, CBC extensions, Drop Inlets, roadway reconstruction, and Bridge replacement. It's essential that some work be done during nighttime hours such as the bridge removal, bridge placement, utilities, and replacement of existing bridges, signalization, and some miscellaneous construction.

Your cooperation in getting this granted will greatly be appreciated. I can be contacted at 575-525-7315 if further assistance is required.

Sincerely,

Gabriel Garcia,  
Project Manager

**Susana Martinez**  
Governor

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

**Commissioners**

**Pete Rahn**  
Chairman  
District 3

**Debra Hicks**  
Vice Chairman  
District 2

**Dr. Kenneth White**  
Secretary  
District 1

**Ronald Schmeits**  
Commissioner  
District 4

**Butch Mathews**  
Commissioner  
District 5

**Jackson Gibson**  
Commissioner  
District 6



**TO:** Jorge A. Garcia, PhD, P.E., Director of Utilities

**THRU:** *and* Adrienne Widmer, P.E., RES/TS Administrator

**FROM:** *cc.* Carl Clark, P.E., Utility Project and Water Rights Manager

**DATE:** April 9, 2012

**SUBJECT: NMDOT I-10 and State Road 292 Interchange Project – Work Outside of Normal Working Hours**

The New Mexico Department of Transportation (NMDOT) Interstate 10 (I-10) and New Mexico State Road 292 (NM 292) Interchange Project No. 1100360 consists of the reconstruction and replacement of eastbound and westbound bridges over NM 292, bridge approaches, on and off ramps, reconstruction of NM 292, removal and relocation of Las Cruces Utilities gas and sewer lines, new drainage structures, roadway lighting, and traffic control. The approximate project length is 3.3 miles with a project completion date of December 15, 2012. NMDOT has awarded the project to El Terrero Construction, LLC (Contractor) of Rio Rancho, New Mexico, for a total contract amount of \$9,677,759.70.

On March 8, 2012, the Las Cruces Utilities Department (City) received a letter from Gabriel Garcia, Project Manager for the NMDOT, requesting that the Contractor be allowed to work within the City limits outside the established working hours. In order to minimize inconveniences to residents and the traveling public, the Contractor has requested a variance to the City of Las Cruces Municipal Code, Section 19-131 which stipulates construction hours of 7:00 a.m. to 6:00 p.m. The Contractor would like to schedule bridge removal and replacement, utility work, traffic signalization, and miscellaneous construction during the night time hours. There would be an added safety benefit for allowing this work to occur during after hours, due to the decrease in the amount of traffic during the after hours.

Las Cruces Utilities staff has reviewed the request and evaluated the potential impact to adjacent residential areas. Based on the review and the proximity of the residential areas to the work site along with the type of work proposed, staff feels there will be a minimal adverse impact to the residents and businesses in the surrounding area for the proposed work outside the normal working hours. Therefore with your approval, staff will move forward with submitting the CAES and RES and all additional paperwork for acceptance for the City of Las Cruces Council meeting set for May 7, 2012.

Cc: David Maestas, P.E., Public Works Contracts Administrator