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City of Las Cruces[®]
 PEOPLE HELPING PEOPLE

Council Action and Executive Summary

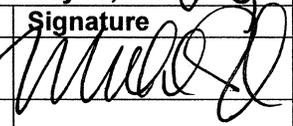
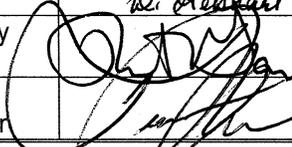
Item # 18 Ordinance/Resolution# 09-309 Council District: 1-6

For Meeting of June 15, 2009

(Adoption Date)

TITLE: A RESOLUTION APPROVING A CHANGE ORDER TO THE IMPACT FEE CONTRACT WITH DUNCAN ASSOCIATES TO REVISE THE DRAFT IMPACT FEE CAPITAL IMPROVEMENTS PLAN DOCUMENT, TO ADD ADDITIONAL CONSULTANT TRIPS, AND TO ADD A TIME AND EXPENSE BUDGET TO COVER THE COST FOR IMPLEMENTATION ASSISTANCE IN THE AMOUNT OF \$50,800.00 PLUS \$3,746.50 (NMGRT) FOR A TOTAL AMOUNT OF \$54,546.50 BRINGING THE TOTAL CONTRACT AMOUNT TO \$206,884.68 (INCLUDING NMGRT).

PURPOSE(S) OF ACTION: Approve a change order to the original contract with James Duncan and Associates to provide additional consulting services.

Name of Drafter: Loretta M. Reyes, PE 		Department:		Phone:	
Department	Signature	Phone	Department	Signature	Phone
Originating Department		3333	Budget	J. Puentes for D. Stewart	2300
			Assistant City Manager		2271
Legal		2128	City Manager		2076

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS: In August 2006, the City of Las Cruces (City) awarded a contract to Duncan & Associates to review the City's Development Fee Ordinance and to conduct a study for the proposal and implementation of additional impact fees for transportation systems, drainage systems, and public safety facilities. The City recognizes the importance of conducting a fee study to establish reasonable impact fee(s) that will enable the City to finance improvements that will support an established level of service or to recommend a level of service that may be reasonable to support future growth.

In New Mexico, impact fees are calculated and assessed as outlined in state statutes under the Development Fees Act. The Las Cruces Municipal Code also has similar legislation mirroring this act. This legislation authorizes municipalities to impose impact fees, provided the fees comply with certain standards. This act requires that two factors be documented before impact fees can be assessed:

1. **Land Use Assumptions (LUA)** - These assumptions must cover a period of at least five years in the future and must document the projected quantity of new development occurring during that time.
2. **Impact Fee Capital Improvements Plan (IFCIP)** - This plan must be prepared to show how demand for added capital facility capacity presented by new development, is translated into cost, and specifically, cost per new development unit.

The City directed Duncan & Associates to undertake a two phase process to include both items outlined above. The first phase of this project is to develop the LUA document. This report defines the quantity of new development expected over the next ten years, and the geographic area within which that development will occur. This information also includes an overview of factors which have influenced and are expected to influence growth in Las Cruces. The estimate and projection of new development are defined in terms of impact fee property types (single family, multi-family, hotel rooms, and non residential). This document was approved for recommendation to the City Council by the CIAC on June 19, 2008.

The second phase was to complete a draft of the IFCIP. This plan details requisite capital facilities needed to meet demand from new development and shows the calculation of the impact fee for each property type. This document was completed on March 3, 2009. Duncan Associates presented the draft IFCIP to the City Council at the March 9, 2009 Work Session. The City Council made several comments, requested additional information, and requested another work session to further discuss implementation of impact fees for transportation, drainage and public safety for residential development. A second work session was scheduled for April 8, 2009, at which the following four presentations were given to City Council:

- Where are we? Where have we been? Where are we going? – Michael D. Johnson, P.E.
- Bond Financing Experience Utilizing Impact Fees – Dr. Mark Sutter
- Waiver of Impact Fees for Affordable Housing – David Dollahon
- Available Options for IFCIP Implementation – James Duncan (Duncan Associates)

The final presentation, given by James Duncan, addressed the comments made by the City Council at the March 9, 2009 work session as well as issues such as: establishing one service area with two assessment districts; removal of state roads from the major road inventory; priority corridors; and, phasing of the fees. Moreover, it provided additional information so that the City Council could provide direction on how to proceed with the implementation of impact fees for transportation, drainage, and public safety. Most of this discussion focused on the impact fees for residential development.

The City Council requested a third work session to discuss the affect of impact fees on commercial development. This work session was scheduled for May 6, 2009. The following topics were presented:

- Impact Fee 101 – James Duncan, Duncan Associates
- Review of proposed Commercial Impact Fees – James Duncan, Duncan Associates
- Examples of current development costs versus impact fees – James Duncan, Duncan Associates or Michael D. Johnson, P.E., Public Works Director
- Impact fees and how they fit into the current planning processes (Vision 2040) – Thomas Schuster, Senior Planner, Community Development Department.

As a result of these three meetings, the draft IFCIP will be modified to address issues such as: one service area, one service area with two assessment districts, and one service area with the infill area exempted; a process to phase in the impact fees over several years; the removal of Dona Ana County and State roads from the roadway inventory; the update and modification of the Capital Improvement Plan project list; additional discussion regarding transit corridors and their possible exemption; and enacting one or all three of the fees. The cost for this work is \$10,737.50 (including NMGR).

Additionally, staff proposes to add seven (7) trips to accommodate additional meetings that staff anticipates will be held with the CIAC, Stakeholders, and the City Council. The cost for the additional seven (7) trips is \$33,071.50 (including NMGR). Furthermore, a budget of \$10,737.50 (including NMGR) will be established to cover the costs associated with additional implementation assistance related to additional IFCIP study revisions, presentation/trip preparation, weekly conference calls, etc. which will be billed on a time and expense basis.

Public Works/Engineering Services staff recommends the approval of this change order in the amount of \$50,800.00 plus \$3,746.50 (NMGR) for a total amount of \$54,546.50 to the professional services contract with Duncan & Associates to perform the additional work necessary to update and modify the draft IFCIP. This change order will increase the total contract amount from \$152,338.18 (including NMGR) to \$206,884.68 (including NMGR).

SUPPORT INFORMATION:

Fund Name / Account Number	Amount of Expenditure	Budget Amount
General Fund 1000: Acct 10226010-722190	\$48,756.00	\$48,756 Available
Engineering Svcs Fund 1005: Acct 10226110-722190	\$5,790.50	\$7,315 Available

1. Resolution.
2. Exhibit "A", Purchasing Manager's Request to Contract.
3. Exhibit "B", Contract Addendum with Amended Scope of Services.

OPTIONS / ALTERNATIVES:

1. Vote "Yes." This action will approve the change order in the amount of \$54,546.50 (including NMGR) to the contract with Duncan Associates to update and modify the draft IFCIP; to add additional consultant trips; and, to establish a time and expense budget to cover the cost for implementation assistance. This change order brings the total contract amount to \$206,884.68 (including NMGR).
2. Vote "No." This action will not approve the change order and will require staff to re-evaluate the remaining tasks on the current contract to fit this additional work within the remaining budget. This could jeopardize the impact fee project and require staff to place the project on hold indefinitely.
3. Modify the resolution and direct staff accordingly.
4. Table the Resolution.

A RESOLUTION APPROVING A CHANGE ORDER TO THE IMPACT FEE CONTRACT WITH DUNCAN ASSOCIATES TO REVISE THE DRAFT IMPACT FEE CAPITAL IMPROVEMENTS PLAN DOCUMENT, TO ADD ADDITIONAL CONSULTANT TRIPS, AND TO ADD A TIME AND EXPENSE BUDGET TO COVER THE COST FOR IMPLEMENTATION ASSISTANCE IN THE AMOUNT OF \$50,800.00 PLUS \$3,746.50 (NMGRT) FOR A TOTAL AMOUNT OF \$54,546.50 BRINGING THE TOTAL CONTRACT AMOUNT TO \$206,884.68 (INCLUDING NMGRT).

The City Council is informed that:

WHEREAS, in August 2006, the City of Las Cruces (City) awarded a contract to Duncan Associates to review the City's Development Fee Ordinance and to conduct a study for the proposal and implementation of additional impact fees for transportation systems, drainage systems, and public safety facilities; and

WHEREAS, the Development Fees Act requires that Land Use Assumptions (LUA) and an Impact Fee Capital Improvements Plan (IFCIP) be completed before impact fees can be implemented; and

WHEREAS, the LUA document was approved for recommendation to the City Council by the Capital Improvements Advisory Committee (CIAC) on June 19, 2008; and

WHEREAS, the draft IFCIP report was completed on March 3, 2009 and was presented to the City Council by Duncan Associates on March 9, 2009; and

WHEREAS, the City Council made several comments, requested additional information, and requested another work session to further discuss impact fees for transportation, drainage and public safety for residential development; and

WHEREAS, a second work session was held on April 8, 2009 at which presentations were made by City staff and Duncan Associates in response to the feedback received from the City Council on March 9, 2009; and

WHEREAS, a third work session was held on May 6, 2009 at which presentations were given by City staff and Duncan Associates regarding Impact Fees 101, commercial impact fees, examples of impact fees versus current development costs, and how impact fees relate to Vision 2040; and

WHEREAS, as a result of the three work sessions, City staff was directed to modify the draft IFCIP to address issues such as service area, assessment districts, infill area exemption, impact fee phasing, modifying the capital improvements plan project list, etc. that were brought forward and discussed at all three work sessions; and

WHEREAS, additional trips will be added to the contract to accommodate additional meetings that will be held with the CIAC, Stakeholders, and the City Council to discuss the new draft IFCIP and a time and expense budget will be added to cover costs associated with additional implementation assistance related to additional IFCIP study revisions, presentation/trip preparation, weekly conference calls, and other required work; and

WHEREAS, the additional work to modify the draft IFCIP document will cost \$10,737.50 (including NMGRT); the additional seven (7) trips will cost \$33,071.50 (including NMGRT); and, the time and expense budget will be established in the amount of \$10,737.50 (including NMGRT) for a total cost of \$54,546.50 (including NMGRT); and

WHEREAS, the change order will increase the total contract amount from \$152,338.18 (including NMGRT) to \$206,884.68 (including NMGRT); and

WHEREAS, staff recommends approval of this change order to the contract with Duncan Associates in the amount of \$50,800.00 plus \$3,746.50 NMGRT for a total cost of \$54,546.50.

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

(I)

THAT the change order for the additional work to modify the draft IFCIP; to add seven (7) trips to the contract to accommodate additional meetings; and, to add a time and expense budget to cover costs associated with additional implementation assistance related to additional IFCIP study revisions, presentation/trip preparation, weekly conference calls, etc. is hereby approved in the amount of \$50,800.00 plus \$3,746.50 NMGRT for a total cost of \$54,546.50.

(II)

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

DONE AND APPROVED this _____ day of _____, 20____.

APPROVED:

(SEAL)

Mayor

ATTEST:

VOTE:

City Clerk

Mayor Miyagishima: _____
Councillor Silva: _____
Councillor Connor: _____
Councillor Archuleta: _____
Councillor Small: _____
Councillor Jones: _____
Councillor Thomas: _____

Moved by: _____

Seconded by: _____

Approved as to Form:



City Attorney

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CITY OF LAS CRUCES

PURCHASING MANAGER'S REQUEST FOR CHANGE ORDER

For Meeting of: June 15, 2009

Resolution No.: 08-09-341A

**Change Order to Existing Contract For
The Updating Development Impact Fee Contract**

The Las Cruces City Council is provided the following information concerning this request:

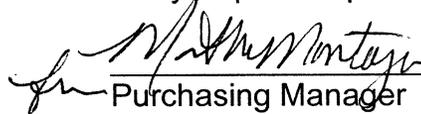
BID/RFP SOLICITATION INFORMATION:

1. Original Bid/RFP & Due Date: **RFP #05-06-272/ July 5, 2006**
2. Description of Bid/RFP: **Updating Development Impact Fees**
3. Contract Award: **Resolution No.08-09-431/December 4, 2009**
4. Contract Revision:

Previous Contract Award Amount:	\$152,338.18
Change Order Amount:	<u>\$54,546.50</u>
New Contract Amount:	\$206,884.68
5. Contractor: **James Duncan and Associates**
6. Using Department: **Public Works/Engineering Services**
7. Contract Duration: **December 31, 2010**

PROCUREMENT CODE COMPLIANCE:

The City of Las Cruces Procurement Code was administered in the conduct of this procurement and approval to change the above contract is hereby requested pursuant to **Section 24-228.**


Purchasing Manager

12/4/09
Date

CONFIRMATION OF FUND ENCUMBRANCE:

REQUISITION OR PURCHASE ORDER NUMBER:	91002096
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**AMENDMENT TO
PROFESSIONAL SERVICES AGREEMENT**

This agreement amendment made and entered into on this _____ day of _____, 2009, by and between the City of Las Cruces, New Mexico, hereinafter referred to as "City" and Duncan Associates, hereinafter referred to as "Consultant", amends the Professional Services Agreement that was entered into on June 8, 2006.

1. PERIOD OF SERVICE

The term of the agreement is extended until December 31, 2010.

2. SCOPE OF SERVICES

The scope of services is hereby amended to add additional services in the form of three additional tasks as follows:

Task 8.0: Impact Fee Capital Improvement Plan (IFCIP) Revisions

Consultant will revise draft Impact Fee Capital Improvement Plan for Transportation, Drainage, and Public Safety impact fees to address comments by the City of Las Cruces City Council.

Deliverable: Revised draft Impact Fee Capital Improvement Plan

Task 9.0: Additional Meetings

Consultant will attend up to seven (7) additional meetings beyond those included in other tasks in order to present the revised draft IFCIP at City Council work sessions, City Council meetings, CIAC meetings and stakeholder meetings as requested by the City.

Deliverable: Seven (7) trips by out-of-state consultant personnel

Task 10.0: Implementation Assistance

Consultant may provide additional implementation assistance related to additional IFCIP study revisions resulting from City Council work sessions, City Council meetings, CIAC meetings and stakeholder meetings, presentation/trip preparation, weekly conference calls, etc. These services will be billed on a time and expense basis as authorized and approved by the Public Works Director or designee.

Deliverable: Implementation assistance as required by the City billed on a time and expense basis.

The costs associated with the above tasks are shown in the following revised Cost Summary Table to be made part of this change order.

Cost Summary

Task	Total Cost
Task 1: Project Organization and Data Collection	\$ 8,580.00
Task 2: Capital Plan Review	\$12,000.00
Task 3: Land Use Assumptions	\$17,560.00
Task 3.1: Land Use Assumptions Revisions	\$ 5,060.00
Task 4: Draft Capital Improvements Plan	\$31,140.00
Task 5: Final Capital Improvements Plan	\$20,240.00
Task 5.1: Capital Improvements Plan Revisions	\$19,906.00

Task 6: Ordinance and Administration	\$10,120.00
Task 7: Additional Meetings (8)	\$17,600.00
Task 8.0: Impact Fee Capital Improvement Plan (IFCIP) Revisions	\$10,000.00
Task 9.0: Additional Meetings (14 one-person trips @ \$2,200)	\$30,800.00
Task 10.0: Implementation Assistance	\$10,000.00

TOTAL \$142,206.00 **\$193,006.00**
(not including NMGRT)

3. COMPENSATION

For the additional services to be added to the contract by this amendment and provided by Consultant, City shall compensate Consultant the amount of \$54,546.50, which consists of \$50,800.00 plus \$3,746.50 for New Mexico Gross Receipts Tax (NMGRT).

This contract amendment will increase the total contract amount from \$152,338.18 (including NMGRT) to \$206,884.68 (including NMGRT).

IN WITNESS WHEREOF, City and Consultant have caused this instrument to be signed by their respective duly authorized officers.

CITY OF LAS CRUCES

JAMES DUNCAN AND ASSOCIATES, INC.

BY: _____

By: _____

James B. Duncan, President

Date: _____

Date: _____

APPROVED AS TO FORM:

City Attorney