



4  
**City of Las Cruces**<sup>®</sup>  
 PEOPLE HELPING PEOPLE

**Council Action and Executive Summary**

Item # 1

Ordinance/Resolution# 13-047

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

For Meeting of October 1, 2012  
 (Adoption Date)

Please check box that applies to this item:

QUASI JUDICIAL       LEGISLATIVE       ADMINISTRATIVE

**TITLE:** A RESOLUTION TO ACCEPT FUNDING FROM THE NEW MEXICO DEPARTMENT OF TRANSPORTATION, TRAFFIC SAFETY DIVISION COMMUNITY DWI PROGRAM ON BEHALF OF THE LAS CRUCES POLICE DEPARTMENT IN THE AMOUNT OF \$5,284.00, RATIFY THE CITY MANAGER'S SIGNATURE ON THE PROJECT AGREEMENT AND TO ADJUST THE FY 2013 BUDGET.

**PURPOSE(S) OF ACTION:**

Accept grant funding.

<b>COUNCIL DISTRICT:</b> All		
<b>Drafter/Staff Contact:</b> S. Nicole Williams	<b>Department/Section:</b> Financial Services / Grants Administration	<b>Phone:</b> 541-2716
<b>City Manager Signature:</b>		

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

The New Mexico Department of Transportation, Traffic Safety Division is dedicated to providing a safe and efficient transportation system in New Mexico and is committed to preventing injuries and saving lives by eliminating crashes on New Mexico roadways.

Part of this commitment comes in the form of the Community DWI Program which provides funding to public safety departments to assist with DWI enforcement activities. Under this program, the Las Cruces Police Department has been awarded \$5,284.00 to be used for the purchase of lapel cameras for uniformed officers, to be used during DWI and Saturation Patrol enforcement activities and will be used to record field sobriety tests.

**SUPPORT INFORMATION:**

1. Resolution.
2. Exhibit "A", Project Agreement.
3. Exhibit "B", Budget Adjustment.

(Continue on additional sheets as required)

**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> N/A	Yes	<input checked="" type="checkbox"/>	Funds will be deposited into this fund: 2424 in the amount of \$5,284.00 for FY13.
	No	<input type="checkbox"/>	There is no new revenue generated by this action.

**BUDGET NARRATIVE**

Grant funds will be budgeted in Fund 2424: TSB Enforcement, under Project Code 37027 for the purchase of lapel cameras for LCPD.

**FUND EXPENDITURE SUMMARY:**

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
TSB Enforcement	24147450-730200-37027	\$5,284.00	\$5,284.00*	\$0.00	N/A

\*Upon budget adjustment.

**OPTIONS / ALTERNATIVES:**

1. Vote "Yes"; this will allow the City to accept the grant funding, ratify the City Manager's signature on the Project Agreement and authorize the budget adjustment for FY 2013.
2. Vote "No"; this will reject the grant award and could hinder future awards being granted to LCPD from the agency.
3. Vote to "Amend"; this is not an option as the grant funding is specific to the granting agency.
4. Vote to "Table"; this is not an option, as grant funding must be accepted in a timely manner as to meet expenditure deadlines.

**REFERENCE INFORMATION:**

N/A

RESOLUTION NO. 13-047

**A RESOLUTION TO ACCEPT FUNDING FROM THE NEW MEXICO DEPARTMENT OF TRANSPORTATION, TRAFFIC SAFETY DIVISION COMMUNITY DWI PROGRAM ON BEHALF OF THE LAS CRUCES POLICE DEPARTMENT IN THE AMOUNT OF \$5,284.00, RATIFY THE CITY MANAGER'S SIGNATURE ON THE PROJECT AGREEMENT AND TO ADJUST THE FY 2013 BUDGET.**

The City Council is informed that:

**WHEREAS**, the New Mexico Department of Transportation (NMDOT), Traffic Safety Division has awarded the Las Cruces Police Department \$5,284.00 in grant funding; and

**WHEREAS**, grant funding is provided under the Community DWI Program; and

**WHEREAS**, per the grant agreement, funds will be used to purchase lapel cameras for uniformed officers; and

**WHEREAS**, the lapel cameras will be used by officers during DWI traffic enforcement activities as prescribed in the Project Agreement.

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

(I)

**THAT** the City of Las Cruces is authorized to accept grant funding, on behalf of the Police Department, in the amount of \$5,284.00 from the New Mexico Department of Transportation.

(II)

**THAT** the City Manager's signature on the Project Agreement is hereby ratified, Exhibit "A", attached hereto and made part of this resolution.

(III)

THAT the City of Las Cruces FY 2013 budget is hereby adjusted as designated in Exhibit "B", attached hereto and made part of this resolution.

(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 \_\_\_\_\_, 20\_\_\_\_\_.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

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

(SEAL)

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

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

APPROVED AS TO FORM:

VOTE:

Mayor Miyagishima:	_____
Councillor Silva:	_____
Councillor Smith:	_____
Councillor Pedroza:	_____
Councillor Small:	_____
Councillor Sorg:	_____
Councillor Thomas:	_____

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

**PROJECT TITLE:** Community DWI Programs  
**PROJECT NUMBER:** 13-CD-05-049  
**GRANTEE NAME:** Las Cruces (City of)

## PROJECT AGREEMENT

This AGREEMENT is entered into by and between the State of New Mexico, acting through its NEW MEXICO DEPARTMENT OF TRANSPORTATION, PROGRAMS DIVISION, TRAFFIC SAFETY DIVISION, hereinafter referred to as "DEPARTMENT" or "TSD", and Las Cruces (City of), hereinafter referred to as the "GRANTEE," collectively referred to as the "PARTIES."

In consideration of the covenants contained herein and pursuant to the DEPARTMENT's authority under the Traffic Safety Act, NMSA 1978, Sections 66-7-501 through 66-7-511, as amended, the PARTIES agree as follows:

### SECTION ONE – PROJECT PURPOSE AND CONDITIONS:

The purpose of this AGREEMENT is to fund activities to reduce DWI, which are of permanent direct benefit to traffic safety in New Mexico. The GRANTEE shall comply with all provisions and conditions of this Agreement, including the Traffic Safety Division Project Management and Accounting Procedures Manual and the State Procurement Code, NMSA 1978, Sections 13-1-28 to Sections 13-1-199.

### SECTION TWO – PROJECT FUNDING:

Funding for this Community DWI (CDWI) project comes from a \$75.00 fee imposed on convicted drunk drivers as allowed by Section 31-12-7(B), and Regulation 18.20.6 NMAC (2004).

The total estimated cost for the PROJECT is \$ 5,284.00

The GRANTEE shall pay all PROJECT costs that exceed \$ 5,284.00.

The project budget is itemized as follows:

Personal Services	\$ 0.00
Contractual Services	\$ 0.00
Commodities	\$ 5,284.00
Indirect	\$ 0.00
Other	\$ 0.00
<b>TOTAL</b>	<b>\$ 5,284.00</b>

The Grantee may transfer funds between budget categories with prior written approval from TSD when the transfer of funds improves program effectiveness.

**SECTION THREE – PROGRAM SCOPE OF WORK:**

**A. MISSION:**

To provide a seamless transportation system that safely and efficiently moves people and supports a growing economy.

The Traffic Safety Division is committed to preventing injuries and saving lives by eliminating crashes on New Mexico public roadways. ¡Sí Se Puede!

**B. PROGRAM SERVICES:**

Program will provide services and/or items to the community to reduce DWI crashes and fatalities and work with local law enforcement agencies to conduct high visibility DWI enforcement activities to increase public safety in Las Cruces (City of).

**PERFORMANCE GOALS (statewide):**

**At the state level:**

1. Reduce the number of fatalities involving driver/motorcycle operators with .08 or higher BAC from 107 in 2010 to 96 in 2012. (C-6; FARS Data)

**C. ACTIVITIES: The Grantee shall:**

1. Conduct activities in a manner consistent with TSD’s Project Management and Accounting Procedures Manual and the Traffic Safety CDWI manual.
2. Designate a Project Director who will be the Grantee’s contact person with respect to all matters involving this project.
3. Allocate funds for Conference and training fees, per diem, and other related costs.
4. Attend DWI trainings as requested by the Department.
5. The GRANTEE shall pay all PROJECT costs that exceed \$ 5,284.00

**Enforcement:**

6. Provide \$5,284.00 in funding to purchase uniformed lapel cameras to be used by the Las Cruces Police Department officers during DWI operations.

**D. MEASURES:**

Quarterly Projections:

	1st	2nd	3rd	4th
1. Activities consistent with TSD Procedures	Year long.....			
2. Designate Project Director for CDWI	Year long.....			
3. Funds for Conference/training fees, other costs	Year long.....			
4. Attend all DWI conferences/trainings	Year long.....			
5. GRANTEE shall pay all PROJECT costs that exceed \$ 5,284.00	Year long.....			

Quarterly Projections:

- 6. Purchase lapel cameras to be issued to each patrol officer and review and critique lapel camera film for court usage , and training for new officers. Entire Year .....
- Attend all DWI conferences and training. Entire Year .....

**E. TRAINING:**

The CDWI Conference if held by TSD is mandatory for the Project Director and will be required to participate in the once a year training and any other trainings as determined by TSD to be necessary to implement program activities. If the Project Director cannot attend the training, the agency must send a representative.

**F. EVALUATION:**

The GRANTEE will submit its quarterly reports by October 31, January 31, April 30, and August 31 of each year this Agreement is in effect.

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

There shall be strict accountability for all receipts and disbursements relating hereto. The GRANTEE shall maintain all books, documents, papers, accounting records, data, and other documentation pertaining to costs incurred and to make such materials available to the DEPARTMENT at GRANTEE'S respective offices at all reasonable times during the AGREEMENT period and for three (3) years from the date of final payment under the AGREEMENT. The GRANTEE shall furnish the DEPARTMENT or State Auditor, upon demand, any and all such records relevant to this AGREEMENT and allow them the right to audit all records which support the terms of this AGREEMENT. If an audit finding determines that a specific funding use was inappropriate or not related to the project, the GRANTEE shall reimburse that portion to the DEPARTMENT within thirty (30) days of written notification of the audit finding. If documentation is insufficient to support an audit by customarily accepted accounting practices, the expenses supported by such insufficient documentation shall be reimbursed to the DEPARTMENT within 30 days.

**SECTION FIVE - PROJECT RESPONSIBILITY:**

Completing the terms this Project is the GRANTEE's sole responsibility and nothing herein is intended to give the DEPARTMENT any responsibility for the Project other than as set forth in this AGREEMENT.

**SECTION SIX - AUTHORIZATION OF EXPENDITURES:**

The terms of this AGREEMENT are contingent upon sufficient appropriations and authorizations being made by the Congress of the United States if federal funds are involved, or the State Legislature if State funds involved, for performance of this AGREEMENT. If

sufficient appropriations and authorizations are not made, this AGREEMENT shall terminate upon written notice being given by the DEPARTMENT to the GRANTEE. 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 the AGREEMENT shall be final.

## **SECTION SEVEN - TERMS OF THE 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 EIGHT - THIRD PARTY BENEFICIARY CLAUSE:**

No provision of this AGREEMENT creates or is intended 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 person, damage to property, and/or any other claim(s) whatsoever pursuant to the provision of this AGREEMENT.

## **SECTION NINE - NEW MEXICO TORTS CLAIM ACT:**

No provision of this AGREEMENT establishes any waiver of immunity from liability for alleged tortious conduct of any employee of the DEPARTMENT or the GRANTEE arising from the performance of this AGREEMENT apart from that set forth in the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, and et seq., as amended.

## **SECTION TEN - 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 ELEVEN - AMENDMENT:**

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

## **SECTION TWELVE - REIMBURSEMENT:**

Funds expended by the GRANTEE for the purposes stated in Section Three – Program Scope of Work shall be reimbursed by the DEPARTMENT to the GRANTEE. The DEPARTMENT

shall not reimburse the GRANTEE for any costs incurred prior to the full execution of the AGREEMENT, after the expiration of the AGREEMENT, or in excess of the maximum dollar amount of the AGREEMENT, unless the maximum dollar amount is duly amended prior to incurring cost for services or deliverables. Claims for reimbursement must be fully completed and submitted at least quarterly on the required forms provided by the DEPARTMENT. All reimbursement claims must be received by the DEPARTMENT no later than 30 days after the end date of this AGREEMENT. Documentation as outlined in the Traffic Safety Division's Project Management and Accounting Procedures Manual must be retained in the GRANTEE's files.

### **SECTION THIRTEEN - EFFECTIVE DATE and TERMINATION:**

- A. This AGREEMENT becomes effective on July 1, 2012 or upon signature of the Departments Cabinet Secretary, whichever is later.
- B. This AGREEMENT must be received by the DEPARTMENT within sixty (60) days of the Deputy Secretary's signature date in order to be valid. The Department may reject any agreement executed by the grantee 60 days or more after the Deputy Secretary's signature.
- C. This AGREEMENT shall terminate June 30, 2013. Neither party shall have any obligation to continue to deliver services or pay compensation for services rendered under this AGREEMENT after said date. If the GRANTEE fails to comply with any provisions of this AGREEMENT, the DEPARTMENT has the option to terminate this AGREEMENT. By such termination, neither party may nullify obligations already incurred for performance of failure to perform prior to termination of the AGREEMENT.

### **SECTION FOURTEEN - EQUAL OPPORTUNITY COMPLIANCE:**

The GRANTEE agrees 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 GRANTEE 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 GRANTEE is found to be not in compliance with these requirements during the life of this AGREEMENT, the GRANTEE agrees to take appropriate steps to correct these deficiencies.

### **SECTION FIFTEEN - CIVIL RIGHTS LAWS AND REGULATIONS COMPLIANCE:**

The DEPARTMENT and GRANTEE shall comply with all federal, state, and local laws and ordinances applicable to the work called for herein. The DEPARTMENT and GRANTEE further agree to operate under and be controlled by Title VI, and Title VII of the Civil Rights Act of 1964, the Age Discrimination Employment Act, the Americans with Disabilities Act of 1990, the Environmental Justice Act of 1994, the Civil Rights Restoration Act of 1987, the New

Mexico Human Rights act, and Executive Order No. 11246 entitled "Equal Employment Opportunity", as amended by Executive Order No. 11375, and as supplemented by the Department of Labor Regulations (41 CFR Part 60). Accordingly, 49 CFR 21 is applicable to this AGREEMENT and is incorporated herein by reference.

**SECTION SIXTEEN - CERTIFICATIONS AND ASSURANCES:**

Where this AGREEMENT involves federal funds the GRANTEE shall comply with all applicable Certifications and Assurances set forth in the current New Mexico Highway Safety Performance Plan.

**IN WITNESS WHEREOF, the parties have executed this AGREEMENT.**

**NEW MEXICO DEPARTMENT  
OF TRANSPORTATION**

**GRANTEE NAME:  
LAS CRUCES (CITY OF)**

APPROVED AS TO FORM:  
*[Signature]*  
CITY ATTORNEY

BY: *Kathryn E. Bender*

BY: *[Signature]*

KATHRYN E. BENDER

RICHARD WILLIAMS-- ROBERT L. GARZA, P.E.

DEPUTY SECRETARY  
OF PROGRAMS AND  
INFRASTRUCTURE

AUTHORIZED OFFICIAL  
TITLE: CHIEF OF POLICE---  
CITY MANAGER

DATE: 8/9/12

DATE: 8/20/12

**Approved as to form and legal sufficiency by the New Mexico Department of Transportation's Office of General Counsel.**

BY: *Cynthia A. Christ*  
Assistant General Counsel

DATE: 8-6-12

**CITY OF LAS CRUCES  
ADOPTED BUDGET FY 2012/2013**

FUND	DIVISION		FUND TYPE	
Traffic Safety Bureau Enforcement Grant Fund 2424	Police		Special Revenue	
	FY 2011/12 Projected*	FY 2012/13 Adopted	FY 2012/13 Adjustment	FY 2012/13 Adjusted
<b>RESOURCES</b>				
Beginning Balance	\$ 41,337	41,337		41,337
<b>REVENUES</b>				
37010 Operation DWI 2009	\$ 0	0		0
37011 Operation Buckledown 2010	0	0		0
37016 Operation DWI 2011	28,226	0		0
37017 Operation Buckledown 2011	5,441	0		0
37022 Community DWI 2012	0	9,000		9,000
37023 Operation Buckledown 2012	2,465	7,401		7,401
37024 Education & Equipment 2012	4,233	0		0
37025 DWI 2012	33,097	28,227		28,227
37027 DWI 2013	0	0	5,284	5,284
37205 Click it or Ticket 2011	0	0		0
37206 Click it or Ticket 2012	0	6,845		6,845
<b>Total Revenues</b>	\$ 73,462	51,473	5,284	56,757
<b>Total Resources</b>	\$ 114,799	92,810	5,284	98,094
<b>EXPENDITURES</b>				
37005 TSB Operation Buckledown 2009	\$ 0	0		0
37006 TSB DWI '08	0	0		0
37010 Operation DWI 2009	0	0		0
37011 Operation Buckledown 2010	0	0		0
37016 Operation DWI 2011	28,226	0		0
37017 Operation Buckledown 2011	5,441	0		0
37018 Mesilla Valley Safety Council	0	34,712		34,712
37022 Community DWI 2012	0	9,000		9,000
37023 Operation Buckledown 2012	2,465	7,401		7,401
37024 Education & Equipment 2012	4,233	0		0
37025 DWI 2012	33,097	28,227		28,227
37027 DWI 2013	0	0	5,284	5,284
37205 Click it or Ticket 2011	0	0		0
37206 Click it or Ticket 2012	0	6,845		6,845
<b>Total Expenditures</b>	\$ 73,462	86,185	5,284	91,469
<b>OTHER FINANCING SOURCES (USES)</b>				
Transfer from Fund 7430-Mesilla Valley Safety Council	0	0		0
<b>Total Other Financing Sources (Uses)</b>	0	0	0	0
<b>ENDING BALANCE</b>	\$ 41,337	6,625	0	6,625

\*Projected based on 8 months actual through February 29, 2012 and 4 months projected.