

61  
**City of Las Cruces**<sup>®</sup>  
 PEOPLE HELPING PEOPLE

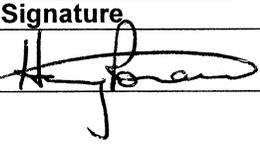
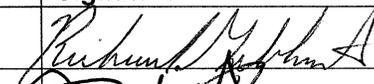
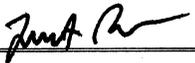
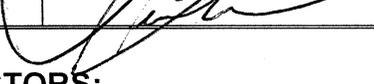
**Council Action and Executive Summary**

Item # 6 Ordinance/Resolution# 10-006 Council District:       

**For Meeting of July 6, 2009**  
 (Adoption Date)

**TITLE:** A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES POLICE DEPARTMENT IN COLLABORATION WITH THE DOÑA ANA COUNTY SHERIFF'S DEPARTMENT TO ACCEPT AWARDED FUNDING FROM THE FY 2009 RECOVERY ACT: EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) FORMULA PROGRAM OFFERED BY THE U.S. DEPARTMENT OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, BUREAU OF JUSTICE ASSISTANCE, TO RATIFY THE GRANT ACCEPTANCE BY THE CITY MANAGER UNDER CITY POLICY 2.2 TO MEET THE GRANT ACCEPTANCE DEADLINE, AND TO ADJUST THE CITY OF LAS CRUCES' FY 2010 BUDGET IN THE AMOUNT OF \$447,870.

**PURPOSE(S) OF ACTION:** This action will enable the City of Las Cruces on behalf of the Las Cruces Police Department (LCPD) and the Doña Ana Sheriff's Office (DASO) to accept funding from the FY 2009 Recovery Act: Edward Byrne Memorial Justice Assistance Grant (JAG) program, and to adjust the 2010 budget.

<b>Name of Drafter:</b> Robin L. Rice		<b>Department:</b> OMB/Grants		<b>Phone:</b> (575) 541-2104	
<b>Department</b>	<b>Signature</b>	<b>Phone</b>	<b>Department</b>	<b>Signature</b>	<b>Phone</b>
Police Department		(575) 528-4200	Budget		(575) 541-2300
Finance Director		(575) 541-2050	Assistant City Manager		(575) 541-2271
Legal		(575) 541-2128	City Manager		(575) 541-2076

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

The FY 2009 Recovery Act: Edward Byrne Memorial Justice Assistance Grant (JAG) Program supports local jurisdictions in all components of the criminal justice system, from multi-jurisdictional drug and gang task forces to crime prevention and domestic violence programs, courts, corrections, treatment, and justice information sharing initiatives.

JAG funds are used for state and local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, information systems for criminal justice, and any law enforcement or justice initiative.

These funds will be divided in accordance with the formula developed by the Department of Justice between the Las Cruces Police Department (\$281,558) and the Doña Ana Sheriff's Office (\$166,312) and utilized in the improvement or enhancement of administration and operations of the law enforcement functions in local criminal justice systems.

(Continue on additional sheets as required)

No matching funds are required from the Las Cruces Police Department or the Doña Ana Sheriff's Office for these grant funds.

**SUPPORT INFORMATION:**

<b>Fund Name / Account Number</b>	<b>Amount of Expenditure</b>	<b>Budget Amount</b>
29140010-551021-13221/13222 Recovery Act: Edward Byrne Memorial Justice Assistance Grant	\$281,558-CLC/ 166,312-DASO	\$447,870

1. Resolution
2. Exhibit A - MOU between the City of Las Cruces and the Doña Ana Sheriff's Office
3. Exhibit B - Letter of Award
4. Exhibit C - Grant Manager's Memorandum, Pt. 1: Project Summary
5. Exhibit D - Grant Application Package
6. Exhibit E - Budget Adjustment FY 2010

**OPTIONS / ALTERNATIVES:**

1. Approve the Resolution and authorize the City of Las Cruces Police Department to accept the funds from the FY 2009 Recovery Act: Edward Byrne Memorial Justice Assistance Grant (JAG) Program, ratify the City Manager's signature for accepting the award, and to adjust the 2010 budget.
2. Do not approved the Resolution and decline the funds awarded to the Las Cruces Police Department from the FY 2009 Recovery Act: Edward Byrne Memorial Justice Assistance Grant (JAG) Program
3. Return CAES and Resolution to OMB/Grants with recommendation for alternative action.

(Continue on additional sheets as required)

**RESOLUTION NO. 10-006**

**A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES POLICE DEPARTMENT IN COLLABORATION WITH THE DOÑA ANA COUNTY SHERIFF'S DEPARTMENT TO ACCEPT AWARDED FUNDING FROM THE FY 2009 RECOVERY ACT: EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) FORMULA PROGRAM OFFERED BY THE U.S. DEPARTMENT OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, BUREAU OF JUSTICE ASSISTANCE, TO RATIFY THE GRANT ACCEPTANCE BY THE CITY MANAGER UNDER CITY POLICY 2.2 TO MEET THE GRANT ACCEPTANCE DEADLINE, AND TO ADJUST THE CITY OF LAS CRUCES' FY 2010 BUDGET IN THE AMOUNT OF \$447,870.**

The City Council is informed that:

**WHEREAS**, the U.S. Department of Justice, Office of Justice Programs' Bureau of Justice Assistance announced the award of funding to the Las Cruces Police Department under CFDA #16.804, FY 2009 Recovery Act: Edward Byrne Memorial Justice Assistance Grant (JAG) Program; and

**WHEREAS**, the Las Cruces Police Department and the Doña Ana County Sheriff's Office received notice of joint eligibility and allocation of \$447,870 in funds formulated from the JAG program; and

**WHEREAS**, a Memorandum of Understanding (MOU) between the Doña Ana County Sheriff's Office and the Las Cruces Police Department was executed and both parties agreed to coordinate their efforts in the administration of this JAG grant program, and that the City of Las Cruces is the designated lead/applicant agency for this grant and the administrator of this project; and

**WHEREAS**, these awarded grant funds, will be utilized to improve or enhance local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, information systems for criminal justice, and any law enforcement or justice

initiatives.

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

**(I)**

**THAT,** the Las Cruces Police Department is authorized to accept the awarded grant funding on behalf of the Las Cruces Police Department and the Doña Ana County Sheriff's Office, for \$447,870 from the U.S. Department of Justice, Office of Justice Programs' Bureau of Justice Assistance, Edward Byrne Memorial Justice Assistance Grant (JAG) Program; and

**(II)**

**THAT,** the awarded grant funds will be divided between the two law enforcement agencies: the Las Cruces Police Department to receive \$281,558 and the Doña Ana County Sheriff's Office to receive \$166,312; and

**(III)**

**THAT,** the awarded grant funds do not require an in-kind match or any other required funding on the part of the City of Las Cruces or the Doña Ana Sheriff's Office; and

**(IV)**

**THAT,** the City of Las Cruces FY 2010 Budget is hereby adjusted as designated in Exhibit E attached hereto and made a part of this resolution; and

**(V)**

**THAT,** the City Council for the City of Las Cruces does hereby ratify and affirm the acceptance of the grant by the City Manager under CMP #2.2 to meet the grant

requirement deadline.

(VI)

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

DONE AND APPROVED this 6th day of July, 2009.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

VOTE:

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

(SEAL)

Mayor Miyagishima: \_\_\_\_\_  
Councillor Silva: \_\_\_\_\_  
Councillor Connor: \_\_\_\_\_  
Councillor Archuleta: \_\_\_\_\_  
Councillor Small: \_\_\_\_\_  
Councillor Jones: \_\_\_\_\_  
Councillor Thomas: \_\_\_\_\_

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

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

Approved as to Form:

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

**U.S. DEPARTMENT OF JUSTICE, OFFICE OF JUSTICE PROGRAMS'  
BUREAU OF JUSTICE ASSISTANCE, RECOVERY ACT: EDWARD BYRNE  
MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) FORMULA PROGRAM:  
LOCAL SOLICITATION  
MEMORANDUM OF UNDERSTANDING**

**THIS AGREEMENT** is made and entered into by and between the City of Las Cruces Police Department, and the Doña Ana County Sheriff's Office.

**RECITALS**

**WHEREAS**, the Las Cruces Police Department, and the Doña Ana County Sheriff's Office received notice of joint eligibility and allocation of \$447,870 in funds formulated from the U.S. Department of Justice, Bureau of Justice Assistance, Edward Byrne Memorial Justice Assistance Grant (JAG) Program; and

**WHEREAS**, the Las Cruces Police Department, the Doña Ana County Sheriff's Office, received certification from the U.S. Department of Justice as a disparate jurisdiction on June 18, 2004; and

**WHEREAS**, the Las Cruces Police Department, and the Doña Ana County Sheriff's Office are coordinating their efforts to improve public safety for all residents of Doña Ana County; and

**WHEREAS**, these grant funds, if awarded, will be distributed to the Las Cruces Police Department, and the Doña Ana County Sheriff's Office according to the JAG application allocation budget; and

**WHEREAS**, these grant funds, if awarded, will be utilized to improve or enhance the administration and operations of the law enforcement function in local adult criminal justice systems; and

**WHEREAS**, these grant funds, if awarded, will address law enforcement officer safety, improving crime scene investigation, tactical training, training to support volunteer programs within law enforcement, drug- and alcohol-impaired driving prevention efforts, local anti-gang programs, and gun violence intervention and enforcement; and

**WHEREAS**, the total request for funds under this grant application is \$447,870 which is the total amount allocated by the U.S. Department of Justice; and

**WHEREAS**, according to the request, if the grant is awarded, the Las Cruces Police Department will receive \$281,558, and the Doña Ana Sheriff's Office will receive \$166,312; and

**WHEREAS**, the City Manager of the City of Las Cruces is the signing authority for this Memorandum of Understanding and all terms and conditions herewith on behalf of the Las Cruces Police Department; and

**WHEREAS**, the Doña Ana County Manager has designated the Doña Ana County Sheriff as the signing authority for this Memorandum of Understanding and all terms and conditions herewith in on behalf of the Doña Ana County Sheriff's Office; and

**NOW, THEREFORE,** the parties agree as follows:

**SECTION ONE – CITY OF LAS CRUCES AGREES:**

Upon receipt of a grant award:

1. To act as the lead/applicant agency for this grant and act as the administrator for this project.
2. To set-up a city account that is dedicated to this grant to promote accurate tracing of revenues and receivables.
3. To expend funds between the Las Cruces Police Department and the Doña Ana County Sheriff's Office according to the JAG application budget, and provide financial reports to the granting agency in accordance with the grant contract.

**SECTION TWO – DOÑA ANA COUNTY AGREES:**

Upon receipt of a grant award:

1. Upon receipt of the grant award, the Doña Ana County Sheriff's Office will accept its share of the funds and provide the Las Cruces Police Department with necessary and adequate documentation required for financial and project reporting in accordance with the grant contract.
2. There is no match requirement for Doña Ana County Sheriff's Office to receive these funds.

**SECTION THREE – ALL PARTIES AGREE:**

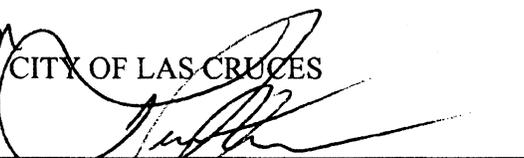
1. Items and services procured to fulfill this grant will be obtained in accordance with applicable federal, state, and City of Las Cruces procurement regulations.

**SECTION FOUR – AMENDMENT:**

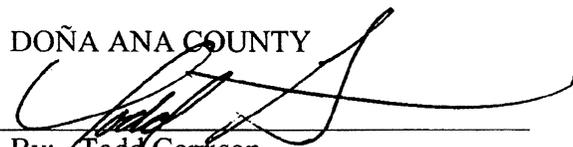
This Agreement shall not be altered, changed, or amended except by an instrument, in writing, executed and approved by all parties.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates below specified.

*approved as to form  
by (let) county  
represent city attorney*

CITY OF LAS CRUCES  
  
By: Terrence Moore, City Manager

Date: 3/23/09

DOÑA ANA COUNTY  
  
By: Todd Garrison  
Doña Ana County Sheriff

Date: 3/25/09



**Department of Justice**  
Office of Justice Programs

Bureau of Justice Assistance

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Office of Justice Programs

Washington, D.C. 20531

May 29, 2009

Mr. Terrence Moore  
City of Las Cruces  
P.O. Box 20000  
Las Cruces, NM 88004-9002

Dear Mr. Moore:

On behalf of Attorney General Eric Holder, it is my pleasure to inform you that the Office of Justice Programs has approved your application for funding under the FY 09 Recovery Act Edward Byrne Memorial Justice Assistance Grant Program Local Solicitation in the amount of \$447,870 for City of Las Cruces.

Enclosed you will find the Grant Award and Special Conditions documents. This award is subject to all administrative and financial requirements, including the timely submission of all financial and programmatic reports, resolution of all interim audit findings, and the maintenance of a minimum level of cash-on-hand. Should you not adhere to these requirements, you will be in violation of the terms of this agreement and the award will be subject to termination for cause or other administrative action as appropriate.

If you have questions regarding this award, please contact:

- Program Questions, Loretta Behm, Program Manager at (202) 616-5878; and
- Financial Questions, the Office of the Chief Financial Officer, Customer Service Center (CSC) at (800) 458-0786, or you may contact the CSC at [ask.ocfo@usdoj.gov](mailto:ask.ocfo@usdoj.gov).

Congratulations, and we look forward to working with you.

Sincerely,

A handwritten signature in black ink, appearing to read "James H. Burch II".

James H. Burch II  
Acting Director

Enclosures



**Department of Justice**  
**Office of Justice Programs**  
**Office for Civil Rights**

*Washington, D.C. 20531*

May 29, 2009

Mr. Terrence Moore  
 City of Las Cruces  
 P.O. Box 20000  
 Las Cruces, NM 88004-9002

Dear Mr. Moore:

Congratulations on your recent award. In establishing financial assistance programs, Congress linked the receipt of Federal funding to compliance with Federal civil rights laws. The Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice is responsible for ensuring that recipients of financial aid from OJP, its component offices and bureaus, the Office on Violence Against Women (OVW), and the Office of Community Oriented Policing Services (COPS) comply with applicable Federal civil rights statutes and regulations. We at OCR are available to help you and your organization meet the civil rights requirements that come with Justice Department funding.

**Ensuring Access to Federally Assisted Programs**

As you know, Federal laws prohibit recipients of financial assistance from discriminating on the basis of race, color, national origin, religion, sex, or disability in funded programs or activities, not only in respect to employment practices but also in the delivery of services or benefits. Federal law also prohibits funded programs or activities from discriminating on the basis of age in the delivery of services or benefits.

**Providing Services to Limited English Proficiency (LEP) Individuals**

In accordance with Department of Justice Guidance pertaining to Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, recipients of Federal financial assistance must take reasonable steps to provide meaningful access to their programs and activities for persons with limited English proficiency (LEP). For more information on the civil rights responsibilities that recipients have in providing language services to LEP individuals, please see the website at <http://www.lep.gov>.

**Ensuring Equal Treatment for Faith-Based Organizations**

The Department of Justice has published a regulation specifically pertaining to the funding of faith-based organizations. In general, the regulation, Participation in Justice Department Programs by Religious Organizations; Providing for Equal Treatment of all Justice Department Program Participants, and known as the Equal Treatment Regulation 28 C.F.R. part 38, requires State Administering Agencies to treat these organizations the same as any other applicant or recipient. The regulation prohibits State Administering Agencies from making award or grant administration decisions on the basis of an organization's religious character or affiliation, religious name, or the religious composition of its board of directors.

The regulation also prohibits faith-based organizations from using financial assistance from the Department of Justice to fund inherently religious activities. While faith-based organizations can engage in non-funded inherently religious activities, they must be held separately from the Department of Justice funded program, and customers or beneficiaries cannot be compelled to participate in them. The Equal Treatment Regulation also makes clear that organizations participating in programs funded by the Department of Justice are not permitted to discriminate in the provision of services on the basis of a beneficiary's religion. For more information on the regulation, please see OCR's website at <http://www.ojp.usdoj.gov/ocr/etfbo.htm>.

State Administering Agencies and faith-based organizations should also note that the Safe Streets Act, as amended; the Victims of Crime Act, as amended; and the Juvenile Justice and Delinquency Prevention Act, as amended, contain prohibitions against discrimination on the basis of religion in employment. Despite these nondiscrimination provisions, the Justice Department has concluded that the Religious Freedom Restoration Act (RFRA) is reasonably construed, on a case-by-case basis, to require that its funding agencies permit faith-based organizations applying for funding under the applicable program statutes both to receive DOJ funds and to continue considering religion when hiring staff, even if the statute that authorizes the funding program generally forbids considering of religion in employment decisions by grantees.

Questions about the regulation or the application of RFRA to the statutes that prohibit discrimination in employment may be directed to this Office.

## Enforcing Civil Rights Laws

All recipients of Federal financial assistance, regardless of the particular funding source, the amount of the grant award, or the number of employees in the workforce, are subject to the prohibitions against unlawful discrimination. Accordingly, OCR investigates recipients that are the subject of discrimination complaints from both individuals and groups. In addition, based on regulatory criteria, OCR selects a number of recipients each year for compliance reviews, audits that require recipients to submit data showing that they are providing services equitably to all segments of their service population and that their employment practices meet equal employment opportunity standards.

## Complying with the Safe Streets Act or Program Requirements

In addition to these general prohibitions, an organization which is a recipient of financial assistance subject to the nondiscrimination provisions of the Omnibus Crime Control and Safe Streets Act (Safe Streets Act) of 1968, 42 U.S.C. § 3789d(c), or other Federal grant program requirements, must meet two additional requirements: (1) complying with Federal regulations pertaining to the development of an Equal Employment Opportunity Plan (EEOP), 28 C.F.R. § 42.301-.308, and (2) submitting to OCR Findings of Discrimination (see 28 C.F.R. §§ 42.205(5) or 31.202(5)).

### 1) Meeting the EEOP Requirement

In accordance with Federal regulations, Assurance No. 6 in the Standard Assurances, COPS Assurance No. 8.B, or certain Federal grant program requirements, your organization must comply with the following EEOP reporting requirements:

If your organization has received an award for \$500,000 or more and has 50 or more employees (counting both full- and part-time employees but excluding political appointees), then it has to prepare an EEOP and submit it to OCR for review **within 60 days from the date of this letter**. For assistance in developing an EEOP, please consult OCR's website at <http://www.ojp.usdoj.gov/ocr/eeop.htm>. You may also request technical assistance from an EEOP specialist at OCR by dialing (202) 616-3208.

If your organization received an award between \$25,000 and \$500,000 and has 50 or more employees, your organization still has to prepare an EEOP, but it does not have to submit the EEOP to OCR for review. Instead, your organization has to maintain the EEOP on file and make it available for review on request. In addition, your organization has to complete Section B of the Certification Form and return it to OCR. The Certification Form can be found at <http://www.ojp.usdoj.gov/ocr/eeop.htm>.

If your organization received an award for less than \$25,000; or if your organization has less than 50 employees, regardless of the amount of the award; or if your organization is a medical institution, educational institution, nonprofit organization or Indian tribe, then your organization is exempt from the EEOP requirement. However, your organization must complete Section A of the Certification Form and return it to OCR. The Certification Form can be found at <http://www.ojp.usdoj.gov/ocr/eeop.htm>.

### 2) Submitting Findings of Discrimination

In the event a Federal or State court or Federal or State administrative agency makes an adverse finding of discrimination against your organization after a due process hearing, on the ground of race, color, religion, national origin, or sex, your organization must submit a copy of the finding to OCR for review.

## Ensuring the Compliance of Subrecipients

If your organization makes subawards to other agencies, you are responsible for assuring that subrecipients also comply with all of the applicable Federal civil rights laws, including the requirements pertaining to developing and submitting an EEOP, reporting Findings of Discrimination, and providing language services to LEP persons. State agencies that make subawards must have in place standard grant assurances and review procedures to demonstrate that they are effectively monitoring the civil rights compliance of subrecipients.

If we can assist you in any way in fulfilling your civil rights responsibilities as a recipient of Federal funding, please call OCR at (202) 307-0690 or visit our website at <http://www.ojp.usdoj.gov/ocr/>.

Sincerely,



Michael L. Alston  
Director

cc: Grant Manager  
Financial Analyst



**Department of Justice**  
**Office of Justice Programs**  
*Bureau of Justice Assistance*

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Washington, D.C. 20531

**Memorandum To:** Official Grant File

**From:** Maria A. Berry, NEPA Coordinator

**Subject:** Incorporates NEPA Compliance in Further Developmental Stages for City of Las Cruces

The Recovery Act emphasizes the importance of compliance with the National Environmental Policy Act (NEPA) in the use of public funds. The Recovery Act - Edward Byrne Memorial Justice Assistance Grant Program (JAG) allows states and local governments to support a broad range of activities to prevent and control crime and to improve the criminal justice system, some of which could have environmental impacts. All recipients of JAG funding must assist BJA in complying with NEPA and other related federal environmental impact analyses requirements in the use of grant funds, whether the funds are used directly by the grantee or by a subgrantee or third party. Accordingly, prior to obligating funds for any of the specified activities, the grantee must first determine if any of the specified activities will be funded by the grant.

The specified activities requiring environmental analysis are:

- a. New construction;
- b. Any renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places;
- c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size;
- d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments; and
- e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.

Complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. Further, for programs relating to methamphetamine laboratory operations, the preparation of a detailed Mitigation Plan will be required. For more information about Mitigation Plan requirements,

please see <http://www.ojp.usdoj.gov/BJA/resource/nepa.html>.

Please be sure to carefully review the grant conditions on your award document, as it may contain more specific information about environmental compliance.

 <p>Department of Justice Office of Justice Programs Bureau of Justice Assistance</p>	<b>GRANT MANAGER'S MEMORANDUM, PT. I: PROJECT SUMMARY</b>  <b>Grant</b>	
	PROJECT NUMBER 2009-SB-B9-0497	PAGE 1 OF 1
This project is supported under FY09 Recovery Act (BJA-Byrne JAG) Pub. L. No. 111-5, 42 USC 3750-3758		
1. STAFF CONTACT (Name & telephone number)  Loretta Behm (202) 616-5878	2. PROJECT DIRECTOR (Name, address & telephone number)  Augie Henry Grant Writer 200 North Church P.O. Box 20000 Las Cruces, NM 88004-9002 (575) 541-2281	
3a. TITLE OF THE PROGRAM BJA FY 09 Recovery Act Edward Byrne Memorial Justice Assistance Grant Program Local Solicitation		3b. POMS CODE (SEE INSTRUCTIONS ON REVERSE)
4. TITLE OF PROJECT  Recovery FY 2009 Justice Assistance Grant Program		
5. NAME & ADDRESS OF GRANTEE  City of Las Cruces P.O. Box 20000 Las Cruces, NM 88004-9002	6. NAME & ADDRESS OF SUBGRANTEE	
7. PROGRAM PERIOD  FROM: 03/01/2009 TO: 02/28/2013	8. BUDGET PERIOD  FROM: 03/01/2009 TO: 02/28/2013	
9. AMOUNT OF AWARD  \$ 447,870	10. DATE OF AWARD  05/29/2009	
11. SECOND YEAR'S BUDGET	12. SECOND YEAR'S BUDGET AMOUNT	
13. THIRD YEAR'S BUDGET PERIOD	14. THIRD YEAR'S BUDGET AMOUNT	
15. SUMMARY DESCRIPTION OF PROJECT (See instruction on reverse)  This grant program is authorized by the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) (the "Recovery Act") and by 42 U.S.C. 3751(a). The stated purposes of the Recovery Act are: to preserve and create jobs and promote economic recovery; to assist those most impacted by the recession; to provide investments needed to increase economic efficiency by spurring technological advances in science and health; to invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits; and to stabilize state and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases. The Recovery Act places great emphasis on accountability and transparency in the use of taxpayer dollars.		

Among other things, it creates a new Recovery Accountability and Transparency Board and a new website – Recovery.gov – to provide information to the public, including access to detailed information on grants and contracts made with Recovery Act funds.

The Justice Assistance Grant (JAG) Program funded under the Recovery Act is the primary provider of federal criminal justice funding to state and local jurisdictions. Recovery JAG funds support all components of the criminal justice system, from multi-jurisdictional drug and gang task forces to crime prevention and domestic violence programs, courts, corrections, treatment, and justice information sharing initiatives. Recovery JAG funded projects may address crime through the provision of services directly to individuals and/or communities and by improving the effectiveness and efficiency of criminal justice systems, processes, and procedures.

The disparate jurisdictions consisting of Dona Ana County and the city of Las Cruces will share the Fiscal Year 2009 Recovery Act JAG award in the amount of \$447,870, with the city serving as the fiscal agent. The city of Las Cruces will use their allocation to purchase a Mobile Operations Center (MOC) for the Las Cruces Police Department (LCPD). The MOC will support tactical and critical incident responses, provide an alternate dispatch center, and be used in neighborhoods to enhance community policing strategies. A regional tactical response vehicle will be purchased for the LCPD to transport members of first response teams and their equipment to perform critical support in man-made and natural emergency events. Additional purchases include mobile surveillance equipment for southern border monitoring and intelligence gathering activities; an on-line reporting system that will provide the public with an alternative to reporting minor crimes; and necessary ammunition for rifles. Dona Ana County will use their portion to purchase new weapons and ammunition for the Dona Ana Sheriff's Office. In addition, 100 taser cams and 26 tasers will be purchased to reduce the necessity of using deadly force.

NCA/NCF

## Grant Application Package

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### Award Acceptance Verification and Signature

Opportunity Title: **R-** Recovery Act: 2009 Edward Byrne Memorial (JAG) Grant Formula

Offering Agency: DOJ, Justice Assistance Grant Program

Opportunity Number: 2009-SB-B9-0497

Approximate Value Requested: \$447,870  
No Match required

**Grant Awarded: May 29, 2009**

Requesting Agency/Department: LCPD/DASO

OMB – Grant Writer: Robin Rice

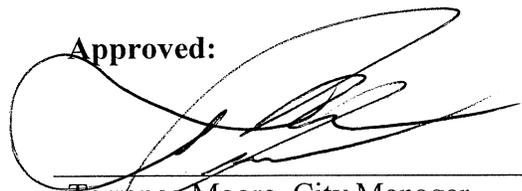
#### SUPPORT INFORMATION

1. OJP Forms for signature
2. Special Conditions – initial each page in the right lower corner of the imprinted box.
3. Council CAES and Resolution will be submitted at the first available agenda date in July.

#### OPTIONS

1. Agree to accept the award. Affirmed by signature below. Package to be returned to OMB, Grant Writer.
2. Disagree, award will be refused. Unsigned package to be returned to OMB, Grant Writer.

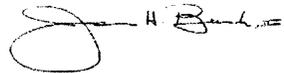
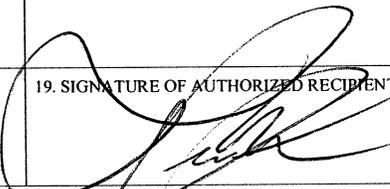
Approved:

  
\_\_\_\_\_  
Terrence Moore, City Manager

Date

  
\_\_\_\_\_  
6/7/09

CMP #2.2 Effective 9/20/04: The City Manager may authorize the application for any grant with these exceptions:  
The grant award is anticipated to be in excess of \$50,000 and funding has not been appropriated as part of the current budget.  
The acceptance of the grant will require City Council to adjust the current budget to appropriate matching funds.  
The grant requirements stipulate that the City will continue to operate and fund the project/program after the grant period is complete.  
The grant requirements stipulate that the City enter into a new Memorandum of Understanding or a Joint Powers Agreement with another entity.

 <p>Department of Justice Office of Justice Programs Bureau of Justice Assistance</p>	<b>Grant</b>	PAGE 1 OF 9																
<b>1. RECIPIENT NAME AND ADDRESS (Including Zip Code)</b> City of Las Cruces P.O. Box 20000 Las Cruces, NM 88004-9002	<b>4. AWARD NUMBER:</b> 2009-SB-B9-0497  <b>5. PROJECT PERIOD:</b> FROM 03/01/2009 TO 02/28/2013 <b>BUDGET PERIOD:</b> FROM 03/01/2009 TO 02/28/2013																	
<b>1A. GRANTEE IRS/VENDOR NO.</b> 856000147	<b>6. AWARD DATE</b> 05/29/2009  <b>8. SUPPLEMENT NUMBER</b> 00	<b>7. ACTION</b> Initial  <b>9. PREVIOUS AWARD AMOUNT</b> \$ 0																
<b>3. PROJECT TITLE</b> Recovery FY 2009 Justice Assistance Grant Program	<b>10. AMOUNT OF THIS AWARD</b> \$ 447,870  <b>11. TOTAL AWARD</b> \$ 447,870																	
<b>12. SPECIAL CONDITIONS</b> THE ABOVE GRANT PROJECT IS APPROVED SUBJECT TO SUCH CONDITIONS OR LIMITATIONS AS ARE SET FORTH ON THE ATTACHED PAGE(S).																		
<b>13. STATUTORY AUTHORITY FOR GRANT</b> This project is supported under FY09 Recovery Act (BJA-Byrne JAG) Pub. L. No. 111-5, 42 USC 3750-3758																		
<b>15. METHOD OF PAYMENT</b> PAPRS																		
<b>AGENCY APPROVAL</b>		<b>GRANTEE ACCEPTANCE</b>																
<b>16. TYPED NAME AND TITLE OF APPROVING OFFICIAL</b>  James H. Burch II Acting Director	<b>18. TYPED NAME AND TITLE OF AUTHORIZED GRANTEE OFFICIAL</b>  Terrence Moore City Manager																	
<b>17. SIGNATURE OF APPROVING OFFICIAL</b> 	<b>19. SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL</b> 	<b>19A. DATE</b> 6/1/09																
<b>AGENCY USE ONLY</b>																		
<b>20. ACCOUNTING CLASSIFICATION CODES</b> <table border="1"> <thead> <tr> <th>FISCAL YEAR</th> <th>FUND CODE</th> <th>BUD. ACT.</th> <th>DIV. OFC.</th> <th>REG.</th> <th>SUB.</th> <th>POMS</th> <th>AMOUNT</th> </tr> </thead> <tbody> <tr> <td>9</td> <td>B</td> <td>SB</td> <td>80</td> <td>00</td> <td>00</td> <td></td> <td>447870</td> </tr> </tbody> </table>	FISCAL YEAR	FUND CODE	BUD. ACT.	DIV. OFC.	REG.	SUB.	POMS	AMOUNT	9	B	SB	80	00	00		447870	<b>21. ISBUGT0199</b>	
FISCAL YEAR	FUND CODE	BUD. ACT.	DIV. OFC.	REG.	SUB.	POMS	AMOUNT											
9	B	SB	80	00	00		447870											

OJP FORM 4000/2 (REV. 5-87) PREVIOUS EDITIONS ARE OBSOLETE.

OJP FORM 4000/2 (REV. 4-88)



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Office of Justice Programs  
**Bureau of Justice Assistance**

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PROJECT NUMBER 2009-SB-B9-0497

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*SPECIAL CONDITIONS*

1. The recipient agrees to comply with the financial and administrative requirements set forth in the current edition of the Office of Justice Programs (OJP) Financial Guide.
2. The recipient acknowledges that failure to submit an acceptable Equal Employment Opportunity Plan (if recipient is required to submit one pursuant to 28 C.F.R. Section 42.302), that is approved by the Office for Civil Rights, is a violation of its Certified Assurances and may result in suspension or termination of funding, until such time as the recipient is in compliance.
3. The recipient agrees to comply with the organizational audit requirements of OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, and further understands and agrees that funds may be withheld, or other related requirements may be imposed, if outstanding audit issues (if any) from OMB Circular A-133 audits (and any other audits of OJP grant funds) are not satisfactorily and promptly addressed, as further described in the current edition of the OJP Financial Guide, Chapter 19.
4. Recipient understands and agrees that it cannot use any federal funds, either directly or indirectly, in support of the enactment, repeal, modification or adoption of any law, regulation or policy, at any level of government, without the express prior written approval of OJP.
5. The recipient must promptly refer to the DOJ OIG any credible evidence that a principal, employee, agent, contractor, subgrantee, subcontractor, or other person has either 1) submitted a false claim for grant funds under the False Claims Act; or 2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving grant funds. This condition also applies to any subrecipients. Potential fraud, waste, abuse, or misconduct should be reported to the OIG by -

mail:

Office of the Inspector General  
U.S. Department of Justice  
Investigations Division  
950 Pennsylvania Avenue, N.W.  
Room 4706  
Washington, DC 20530

e-mail: [oig.hotline@usdoj.gov](mailto:oig.hotline@usdoj.gov)

hotline: (contact information in English and Spanish): (800) 869-4499

or hotline fax: (202) 616-9881

Additional information is available from the DOJ OIG website at [www.usdoj.gov/oig](http://www.usdoj.gov/oig).

6. **RECOVERY ACT – Conflict with Other Standard Terms and Conditions**  
The recipient understands and agrees that all other terms and conditions contained in this award, or in applicable OJP grant policy statements or guidance, apply unless they conflict or are superseded by the terms and conditions included here that specifically implement the American Recovery and Reinvestment Act of 2009, Public Law 111-5 (“ARRA” or “Recovery Act”) requirements. Recipients are responsible for contacting their grant managers for any needed clarifications.



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*SPECIAL CONDITIONS*

7. The grantee agrees to assist BJA in complying with the National Environmental Policy Act (NEPA), the National Historic Preservation Act, and other related federal environmental impact analyses requirements in the use of these grant funds, either directly by the grantee or by a subgrantee. Accordingly, the grantee agrees to first determine if any of the following activities will be funded by the grant, prior to obligating funds for any of these purposes. If it is determined that any of the following activities will be funded by the grant, the grantee agrees to contact BJA.

The grantee understands that this special condition applies to its following new activities whether or not they are being specifically funded with these grant funds. That is, as long as the activity is being conducted by the grantee, a subgrantee, or any third party and the activity needs to be undertaken in order to use these grant funds, this special condition must first be met. The activities covered by this special condition are:

- a. New construction;
- b. Minor renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places;
- c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size;
- d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments; and
- e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.

The grantee understands and agrees that complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. The grantee further understands and agrees to the requirements for implementation of a Mitigation Plan, as detailed at [website], for programs relating to methamphetamine laboratory operations.

Application of This Special Condition to Grantee's Existing Programs or Activities: For any of the grantee's or its subgrantees' existing programs or activities that will be funded by these grant funds, the grantee, upon specific request from BJA, agrees to cooperate with BJA in any preparation by BJA of a national or program environmental assessment of that funded program or activity.

8. To avoid duplicating existing networks or IT systems in any initiatives funded by BJA for law enforcement information sharing systems which involve interstate connectivity between jurisdiction, such systems shall employ, to the extent possible, existing networks as the communication backbone to achieve interstate connectivity, unless the grantee can demonstrate to the satisfaction of BJA that this requirement would not be cost effective or would impair the functionality of an existing or proposed IT system.
9. The grantee agrees to comply with all reporting, data collection and evaluation requirements, as prescribed by law and detailed by the BJA in program guidance for the Justice Assistance Grant (JAG) Program. Compliance with these requirements will be monitored by BJA.
10. The recipient agrees that any information technology system funded or supported by OJP funds will comply with 28 C.F.R. Part 23, Criminal Intelligence Systems Operating Policies, if OJP determines this regulation to be applicable. Should OJP determine 28 C.F.R. Part 23 to be applicable, OJP may, at its discretion, perform audits of the system, as per the regulation. Should any violation of 28 C.F.R. Part 23 occur, the recipient may be fined as per 42 U.S.C. 3789g(c)-(d). Recipient may not satisfy such a fine with federal funds.



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*SPECIAL CONDITIONS*

11. The grantee agrees to comply with the applicable requirements of 28 C.F.R. Part 38, the Department of Justice regulation governing "Equal Treatment for Faith Based Organizations" (the "Equal Treatment Regulation"). The Equal Treatment Regulation provides in part that Department of Justice grant awards of direct funding may not be used to fund any inherently religious activities, such as worship, religious instruction, or proselytization. Recipients of direct grants may still engage in inherently religious activities, but such activities must be separate in time or place from the Department of Justice funded program, and participation in such activities by individuals receiving services from the grantee or a sub-grantee must be voluntary. The Equal Treatment Regulation also makes clear that organizations participating in programs directly funded by the Department of Justice are not permitted to discriminate in the provision of services on the basis of a beneficiary's religion. Notwithstanding any other special condition of this award, faith-based organizations may, in some circumstances, consider religion as a basis for employment. See [http://www.ojp.gov/about/oct/equal\\_fbo.htm](http://www.ojp.gov/about/oct/equal_fbo.htm).
12. The recipient agrees to ensure that the State Information Technology Point of Contact receives written notification regarding any information technology project funded by this grant during the obligation and expenditure period. This is to facilitate communication among local and state governmental entities regarding various information technology projects being conducted with these grant funds. In addition, the recipient agrees to maintain an administrative file documenting the meeting of this requirement. For a list of State Information Technology Points of Contact, go to <http://www.it.ojp.gov/default.aspx?area=policyAndPractice&page=1046>.
13. The recipient agrees that funds received under this award will not be used to supplant State or local funds, but will be used to increase the amounts of such funds that would, in the absence of Federal funds, be made available for law enforcement activities.
14. **RECOVERY ACT - JAG - Trust Fund**  
The recipient is required to establish a trust fund account. (The trust fund may or may not be an interest-bearing account.) The fund, including any interest, may not be used to pay debts or expenses incurred by other activities beyond the scope of either the Edward Byrne Memorial Justice Assistance Grant Program (JAG) or Recovery JAG Program. The recipient also agrees to obligate and expend the grant funds in the trust fund (including any interest earned) during the period of the grant. Grant funds (including any interest earned) not expended by the end of the grant period must be returned to the Bureau of Justice Assistance no later than 90 days after the end of the grant period, along with the final submission of the Financial Status Report (SF-269).
15. **RECOVERY ACT - Access to Records; Interviews**  
The recipient understands and agrees that DOJ (including OJP and the Office of the Inspector General (OIG)), and its representatives, and the Government Accountability Office (GAO), shall have access to and the right to examine all records (including, but not limited to, books, papers, and documents) related to this Recovery Act award, including such records of any subrecipient, contractor, or subcontractor.  
  
The recipient also understands and agrees that DOJ and the GAO are authorized to interview any officer or employee of the recipient (or of any subrecipient, contractor, or subcontractor) regarding transactions related to this Recovery Act award.
16. **RECOVERY ACT - One-time funding**  
The recipient understands and agrees that awards under the Recovery Act will be one-time awards and accordingly that its proposed project activities and deliverables are to be accomplished without additional DOJ funding.



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*SPECIAL CONDITIONS*

**17. RECOVERY ACT – Separate Tracking and Reporting of Recovery Act Funds and Outcomes**

The recipient agrees to track, account for, and report on all funds from this Recovery Act award (including specific outcomes and benefits attributable to Recovery Act funds) separately from all other funds, including DOJ award funds from non-Recovery Act awards awarded for the same or similar purposes or programs. (Recovery Act funds may be used in conjunction with other funding as necessary to complete projects, but tracking and reporting of Recovery Act funds must be separate.)

Accordingly, the accounting systems of the recipient and all subrecipients must ensure that funds from this Recovery Act award are not commingled with funds from any other source.

The recipient further agrees that all personnel (including subrecipient personnel) whose activities are to be charged to the award will maintain timesheets to document hours worked for activities related to this award and non-award-related activities.

**18. RECOVERY ACT – Subawards – Monitoring**

The recipient agrees to monitor subawards under this Recovery Act award in accordance with all applicable statutes, regulations, OMB circulars, and guidelines, including the OJP Financial Guide, and to include the applicable conditions of this award in any subaward. The recipient is responsible for oversight of subrecipient spending and monitoring of specific outcomes and benefits attributable to use of Recovery Act funds by subrecipients. The recipient agrees to submit, upon request, documentation of its policies and procedures for monitoring of subawards under this award.

**19. RECOVERY ACT – Subawards – DUNS and CCR for Reporting**

The recipient agrees to work with its first-tier subrecipients (if any) to ensure that, no later than the due date of the recipient's first quarterly report after a subaward is made, the subrecipient has a valid DUNS profile and has an active registration with the Central Contractor Registration (CCR) database.

**20. RECOVERY ACT - Quarterly Financial Reports**

The recipient agrees to submit quarterly financial status reports to OJP. At present, these reports are to be submitted on-line (at <https://grants.ojp.usdoj.gov>) using Standard Form SF 269A, not later than 45 days after the end of each calendar quarter. The recipient understands that after October 15, 2009, OJP will discontinue its use of the SF 269A, and will require award recipients to submit quarterly financial status reports within 30 days after the end of each calendar quarter, using the government-wide Standard Form 425 Federal Financial Report form (available for viewing at [www.whitehouse.gov/omb/grants/standard\\_forms/ffr.pdf](http://www.whitehouse.gov/omb/grants/standard_forms/ffr.pdf)). Beginning with the report for the fourth calendar quarter of 2009 (and continuing thereafter), the recipient agrees that it will submit quarterly financial status reports to OJP on-line (at <https://grants.ojp.usdoj.gov>) using the SF 425 Federal Financial Report form, not later than 30 days after the end of each calendar quarter. The final report shall be submitted not later than 90 days following the end of the grant period.



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*SPECIAL CONDITIONS*

21. RECOVERY ACT – Recovery Act Transactions Listed in Schedule of Expenditures of Federal Awards and Recipient Responsibilities for Informing Subrecipients

(a) The recipient agrees to maintain records that identify adequately the source and application of Recovery Act funds, to maximize the transparency and accountability of funds authorized under the Recovery Act as required by the Act and in accordance with 2 CFR 215.21, “Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-profit Organizations” and OMB A-102 Common Rules provisions (relating to Grants and Cooperative Agreements with State and Local Governments).

(b) The recipient agrees to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. This condition only applies if the recipient is covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, “Audits of States, Local Governments, and Non-Profit Organizations.” This shall be accomplished by identifying expenditures for Federal awards made under the Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix “ARRA-” in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC.

(c) The recipient agrees to separately identify to each subrecipient the Federal award number, CFDA number, and amount of Recovery Act funds, and to document this identification both at the time of subaward and at the time of disbursement of funds. When a recipient awards Recovery Act funds for an existing program, the information furnished to subrecipients shall distinguish the subawards of incremental Recovery Act funds from regular subawards under the existing program.

(d) The recipient agrees to require its subrecipients to specifically identify Recovery Act funding on their SEFA information, similar to the requirements for the recipient SEFA described above. This information is needed to allow the recipient to properly monitor subrecipient expenditure of Recovery Act funds as well as facilitate oversight by the Federal awarding agencies, the DOJ OIG, and the GAO.

22. RECOVERY ACT – Reporting and Registration Requirements under Section 1512 of the Recovery Act.

(a) This award requires the recipient to complete projects or activities which are funded under the Recovery Act and to report on use of Recovery Act funds provided through this award. Information from these reports will be made available to the public.

(b) The reports are due no later than ten calendar days after each calendar quarter in which the recipient receives the assistance award funded in whole or in part by the Recovery Act.

(c) Recipients and their first-tier recipients must maintain current registrations in the Central Contractor Registration ([www.ccr.gov](http://www.ccr.gov)) at all times during which they have active federal awards funded with Recovery Act funds. A Dun and Bradstreet Data Universal Numbering System (DUNS) Number ([www.dnb.com](http://www.dnb.com)) is one of the requirements for registration in the Central Contractor Registration.

(d) The recipient shall report the information described in section 1512(c) of the Recovery Act using the reporting instructions and data elements that will be provided online at [www.FederalReporting.gov](http://www.FederalReporting.gov) and ensure that any information that is pre-filled is corrected or updated as needed.



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*SPECIAL CONDITIONS*

23. RECOVERY ACT – Provisions of Section 1512(c)

The recipient understands that section 1512(c) of the Recovery Act provides as follows:

Recipient Reports- Not later than 10 days after the end of each calendar quarter, each recipient that received recovery funds from a Federal agency shall submit a report to that agency that contains--

- (1) the total amount of recovery funds received from that agency;
- (2) the amount of recovery funds received that were expended or obligated to projects or activities; and
- (3) a detailed list of all projects or activities for which recovery funds were expended or obligated, including--
  - (A) the name of the project or activity;
  - (B) a description of the project or activity;
  - (C) an evaluation of the completion status of the project or activity;
  - (D) an estimate of the number of jobs created and the number of jobs retained by the project or activity; and
  - (E) for infrastructure investments made by state and local governments, the purpose, total cost, and rationale of the agency for funding the infrastructure investment with funds made available under this Act, and name of the person to contact at the agency if there are concerns with the infrastructure investment.
- (4) Detailed information on any subcontracts or subgrants awarded by the recipient to include the data elements required to comply with the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), allowing aggregate reporting on awards below \$25,000 or to individuals, as prescribed by the Director of the Office of Management and Budget.

24. RECOVERY ACT – Protecting State and Local Government and Contractor Whistleblowers (Recovery Act, section 1553)

The recipient recognizes that the Recovery Act provides certain protections against reprisals for employees of non-Federal employers who disclose information reasonably believed to be evidence of gross management, gross waste, substantial and specific danger to public health or safety, abuse of authority, or violations of law related to contracts or grants using Recovery Act funds. For additional information, refer to section 1553 of the Recovery Act. The text of Recovery Act is available at [www.ojp.usdoj.gov/recovery](http://www.ojp.usdoj.gov/recovery).

25. RECOVERY ACT – Limit on Funds (Recovery Act, section 1604)

The recipient agrees that none of the funds under this award may be used by any State or local government, or any private entity, for construction costs or any other support of any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

26. RECOVERY ACT – Infrastructure Investment (Recovery Act, sections 1511 and 1602)

The recipient agrees that it may not use any funds made available under this Recovery Act award for infrastructure investment absent submission of a satisfactory certification under section 1511 of the Recovery Act. Should the recipient decide to use funds for infrastructure investment subsequent to award, the recipient must submit appropriate certifications under section 1511 of the Recovery Act and receive prior approval from OJP. In seeking such approval, the recipient shall give preference to activities that can be started and completed expeditiously, and shall use award funds in a manner that maximizes job creation and economic benefits. The text of the Recovery Act (including sections 1511 and 1602) is available at [www.ojp.usdoj.gov/recovery](http://www.ojp.usdoj.gov/recovery).



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*SPECIAL CONDITIONS*

27. RECOVERY ACT – Buy American Notification (Recovery Act, section 1605)

The recipient understands that this award is subject to the provisions of section 1605 of the Recovery Act (“Buy American”). No award funds may be used for iron, steel, or manufactured goods for a project for the construction, alteration, maintenance, or repair of a public building or public work, unless the recipient provides advance written notification to the OJP program office, and a Grant Adjustment Notice is issued that modifies this special condition to add government-wide standard conditions (anticipated to be published in subpart B of 2 C.F.R. part 176) that further implement the specific requirements or exceptions of section 1605.

Section 1605 of the Recovery Act prohibits use of any Recovery Act funds for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States, subject to certain exceptions, including United States obligations under international agreements.

For purposes of this special condition, the following definitions apply:

“Public building” and “public work” means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multi-State, regional, or interstate entities which have governmental functions). These buildings and works may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.

“Manufactured good” means a good brought to the construction site for incorporation into the building or work that has been--

- (1) Processed into a specific form and shape; or
- (2) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

“Steel” means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

For purposes of OJP grants, projects involving construction, alteration, maintenance, or repair of jails, detention facilities, prisons, public crime victims’ shelters, police facilities, or other similar projects will likely trigger this provision.

NOTE: The recipient is encouraged to contact the OJP program manager – in advance – with any questions concerning this condition, including its applicability to particular circumstances.



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*SPECIAL CONDITIONS*

28. RECOVERY ACT – Wage Rate Requirements under Section 1606 of the Recovery Act

(a) Section 1606 of the Recovery Act requires that all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the Recovery Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code.

Pursuant to Reorganization Plan No. 14 and the Copeland Act, 40 U.S.C. 3145, the Department of Labor has issued regulations at 29 CFR Parts 1, 3, and 5 to implement the Davis-Bacon and related Acts. Regulations in 29 CFR 5.5 instruct agencies concerning application of the standard Davis-Bacon contract clauses set forth in that section. The standard Davis-Bacon contract clauses found in 29 CFR 5.5(a) are to be incorporated in any covered contracts made under this award that are in excess of \$2,000 for construction, alteration or repair (including painting and decorating).

(b) For additional guidance on the wage rate requirements of section 1606, contact your awarding agency. Recipients of grants, cooperative agreements and loans should direct their initial inquiries concerning the application of Davis-Bacon requirements to a particular federally assisted project to the Federal agency funding the project. The Secretary of Labor retains final coverage authority under Reorganization Plan Number 14.

29. RECOVERY ACT – NEPA and Related Laws

The recipient understands that all OJP awards are subject to the National Environmental Policy Act (NEPA, 42 U.S.C. section 4321 et seq.) and other related Federal laws (including the National Historic Preservation Act), if applicable. The recipient agrees to assist OJP in carrying out its responsibilities under NEPA and related laws, if the recipient plans to use Recovery Act funds (directly or through subaward or contract) to undertake any activity that triggers these requirements, such as renovation or construction. (See 28 C.F.R. Part 61, App. D.) The recipient also agrees to comply with all Federal, State, and local environmental laws and regulations applicable to the development and implementation of the activities to be funded under this award.

30. RECOVERY ACT – Misuse of award funds

The recipient understands and agrees that misuse of award funds may result in a range of penalties, including suspension of current and future funds, suspension or debarment from federal grants, recoupment of monies provided under an award, and civil and/or criminal penalties.

31. RECOVERY ACT – Additional Requirements and Guidance

The recipient agrees to comply with any modifications or additional requirements that may be imposed by law and future OJP (including government-wide) guidance and clarifications of Recovery Act requirements.

32. RECOVERY ACT - JAG - Delinquent section 1512(c) reports

The recipient acknowledges that it has certified that it will comply with all reporting requirements under section 1512(c) of the Recovery Act. (An online reporting mechanism is anticipated to be available for award recipient use by October 10, 2009.) Further to this certification, a failure to comply with the section 1512(c) reporting requirements may, in addition to other penalties, subject the recipient to the following:

- (1) After failure to report section 1512(c) data for two consecutive reporting periods, the recipient may be— (a) precluded from drawing down funds under any OJP award, and/or (b) deemed ineligible for future discretionary OJP awards, until such time as the recipient becomes current in its section 1512(c) reporting obligations; and
- (2) After failure to report section 1512(c) data for three consecutive reporting periods, the recipient, upon written demand of the Director of BJA, shall return to OJP any unexpended award funds (including any unexpended interest earned on award funds) within 15 calendar days of the date of the demand notice. Thereafter, the recipient's award shall be converted to a cost-reimbursable grant until such time as the recipient becomes current in its section 1512(c) reporting obligations, and remains current for not less than two additional consecutive reporting periods.

**CITY OF LAS CRUCES  
ADOPTED BUDGET FY 2009/2010**

FUND	DIVISION		FUND TYPE	
Federal Stimulus Capital Projects Fund 4900	Various		Capital Project	
	Projected*	FY 2009/10 Adopted	Adjustment	FY 2009/10 Adjusted
<b>RESOURCES</b>				
Beginning Balance	\$ 0	0		0
<b>REVENUES</b>				
Recovery Act Byrne Memorial Grant - Police	\$		447,870	447,870
<b>Total Revenues</b>	\$ 0	0	447,870	447,870
<b>Total Resources</b>	\$ 0	0	447,870	447,870
<b>EXPENDITURES</b>				
Recovery Act Byrne Memorial Grant - Police	\$		447,870	447,870
<b>Total Expenditures</b>	\$ 0	0	447,870	447,870
<b>ENDING BALANCE</b>	\$ 0	0	0	0

\*Projected based on 8 months actual through February 28, 2009 and 4 months projected.